

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1912.

No. 229.

THE UNITED STATES AND INTERSTATE COMMERCE
COMMISSION, APPELLANTS,

vs.
LOUISIANA AND PACIFIC RAILWAY COMPANY ET AL.

No. 230.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COM-
PANY AND GULF, COLORADO AND SANTA FE RAIL-
WAY COMPANY, APPELLANTS,

vs.
LOUISIANA AND PACIFIC RAILWAY COMPANY ET AL.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

FILED DECEMBER 29, 1912.

(23,980—23,981)

(23,980 — 23,981)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 829.

THE UNITED STATES AND INTERSTATE COMMERCE
COMMISSION, APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY COMPANY ET AL.

No. 830.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COM-
PANY AND GULF, COLORADO AND SANTA FE RAIL-
WAY COMPANY, APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY COMPANY ET AL.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

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United States Commerce Court.

No. 90.

LOUISIANA & PACIFIC RAILWAY COMPANY, HUDSON RIVER LUMBER Company, King-Ryder Lumber Company, Calcasieu Long Leaf Lumber Company, Longville Lumber Company, and The Long-Bell Lumber Company, Petitioners,

VS.

THE UNITED STATES OF AMERICA, LOUISIANA WESTERN RAILROAD Company, Morgan's Louisiana & Texas Railway & Steamship Company, New Orleans, Texas & Mexico Railroad, and The St. Louis & San Francisco Railroad Company, Respondents; Interstate Commerce Commission, Atchison, Topeka & Santa Fe Railway Company, Gulf, Colorado & Santa Fe Railway Company, Railroad Commission of Louisiana, Interveners.

UNITED STATES OF AMERICA, *ss*:

Be it remembered that in the United States Commerce Court, in the City of Washington, District of Columbia, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

Petition and Exhibits.

(Filed January 6, 1913.)

1 In the United States Commerce Court.

LOUISIANA & PACIFIC RAILWAY COMPANY, HUDSON RIVER LUMBER Company, King-Ryder Lumber Company, Calcasieu Long Leaf Lumber Company, Longville Lumber Company, and The Long-Bell Lumber Company, Petitioners,

VS.

THE UNITED STATES OF AMERICA, LOUISIANA WESTERN RAILROAD Company, Morgan's Louisiana & Texas Railway & Steamship Company, New Orleans, Texas & Mexico Railroad, and The St. Louis & San Francisco Railroad Company, Respondents.

Petition.

To the Judges of the United States Commerce Court:

Your petitioners complain of the respondents, and for cause of action say:

1. That the petitioner Louisiana & Pacific Railway Company is a railway corporation duly chartered, incorporated and existing

2 under the laws of the State of Louisiana, and by its charter duly empowered to acquire rights of way, construct, maintain and operate railroads and branches thereof in the State of Louisiana, as a common carrier of freight and passengers, and to acquire by lease or otherwise, and to operate as a common carrier freight and passenger railways and trains, and to carry express, United States mail and all other articles usually conveyed and transported by railroads, and to do all things necessary and proper, which may be incident to the above mentioned purposes, and now has and exercises franchises, powers, rights, privileges and immunities conferred by law upon corporations created and organized for railroad purposes.

That the Constitution and Laws of the State of Louisiana provide as follows:

Constitution, Art. 271. "Any railroad corporation or association organized for the purpose shall have the right to construct and operate a railroad between any points within this state and connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination." Const. 1879, Art. 243.

Constitution, Art. 272. "Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and railroad companies common carriers." Const. 1879, Art. 244.

3 Constitution, Art. 273. "Every railroad or other corporation, organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and where shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, the names of owners of stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfers of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers." Const. 1879, p. 245.

Revised Statutes, Sec. 1479. "Whenever the state or any political corporation of the same, created for the purpose of exercising any portion of the governmental powers in the same, or the board of administrators or directors of any charity hospital, or any board of school directors thereof, or any corporation constituted under the laws of this state for the construction of railroads, plank, roads, turnpike roads or canals for navigation; or for the construction or operation of waterworks or sewerage to supply the public with water and sewerage, or for the purpose of transmitting intelligence by magnetic telegraph, cannot agree with the owner of land which may be wanted for its purchase, it shall be lawful for such state, corporation, board of administrators, directors or person to apply by petition to the District Court in which the same may be situated, or if it extends into two districts, to the judge of the District Court in

which the owner resides, and if the owner does not reside in either district, to either of the District Courts, describing the land necessary for the purposes, with a plan of the same, and a statement of the improvement thereon, if any, and the name of the owner thereof, if known at present in the state, with a prayer that the land be adjudged to such state, corporation, board of administrators or directors upon payment to the owner of all such damages as he may sustain in consequence of the expropriation of said land for
4 such public works; all claims for lands or damages to the owner caused by its taking or for expropriation for such public work shall be barred by two (2) years' prescription, which shall commence to run from the date at which the land was actually occupied and used for the construction of the works." (As amended by Act 227, 1902, p. 457.)

Said petitioner Louisiana & Pacific Railway Company operates a line of railroad from De Ridder, Louisiana, to Lake Charles, Louisiana, a distance of about forty-four miles, with a branch line from De Ridder, Louisiana, to Bundick, Louisiana, a distance of nine miles; a branch line from Lilly Junction to Walla, Louisiana, a distance of eight miles, and a branch line from Fayette to Camp Curtis, a distance of nine and one-half miles, and a branch line from Longville to Vandercook, a distance of about five and one-half miles. Making a total mileage of main and branch lines of about seventy-eight miles. Said road also has about nine miles of yard and side tracks.

Said Louisiana & Pacific Railway Company is engaged in both state and interstate commerce. It connects with the Louisiana Western Railroad at Lake Charles, Louisiana, and with the New Orleans, Texas & Mexico Railroad at Fulton, Louisiana; with the Kansas City Southern Railway at Bon Ami and De Ridder, and at Lake Charles, Louisiana; the Gulf, Colorado & Santa Fe Railway at De Ridder, Louisiana, and the St. Louis, Iron Mountain & Southern Railway at Lake Charles, Louisiana.

The petitioner Louisiana & Pacific Railway Company complies with the rules and regulations promulgated by the State Railroad Commission of Louisiana and by the Interstate Commerce Commission, and complies with all the laws of the
5 State of Louisiana and the United States relating to common carriers by railroad.

It carries a full line of class and commodity rates between points on its own line in Louisiana and concurs in joint tariffs applying between points on its own road and points on connecting lines in Louisiana, and carries a full line of class and commodity rates from and to all interstate territory via all connecting lines, excepting the Gulf, Colorado & Santa Fe Railway Company.

It has invested in physical property \$623,014.28, which represents about \$8,000 per mile, including equipment, and including the "joint track" hereinafter referred to, or about \$14,000 per mile, exclusive of the "joint track."

It has an equipment consisting of:

- 9 locomotives,
- 12 box cars,
- 17 flat cars,
- 5 cabooses,
- 1 work car,
- 1 derrick car,
- 1 office car,
- 335 logging cars,
- 1 motor car,
- 1 hand car.

It maintains an operating force consisting of a general superintendent, local auditor, car accountant, chief dispatcher, two telegraph operators in chief dispatcher's office, five agents, who also are telegraph operators, fifteen clerks, five stenographers, eight 6 train crews, and the necessary section gangs and track men, varying from time to time; none of which operating force is in any way connected with any of the lumber companies, petitioners herein, or of any other lumber company located on its line of road.

In addition to the lumber traffic handled, it receives from and delivers to various connections merchandise in carload and less than carload quantities, and handles passengers on mixed trains between De Ridder and Lake Charles under tariffs filed with and approved by the Louisiana Railroad Commission and the Interstate Commerce Commission.

There are on the line of this road twenty cities, towns, villages or stations, from and to which it receives and delivers all kinds of freight. Three of these towns, De Ridder, Bon Ami and Longville, have a population of about 2,000 each; Lake Charles has a population of over 12,000.

There are various corporations, individuals and industries located on its line of road and which it serves as a common carrier, none of which, nor the stockholders in which have any interest in the Louisiana & Pacific Railway Company, or in any of the petitioners herein. Among other such industries the W. A. Brown Lumber Company have a saw mill located at Bannister, Louisiana, to which saw mill, prior to the 1st of May, 1912, they shipped logs over both the branch and main lines of the Louisiana & Pacific Railway and shipped the finished product out over the main line of the Louisiana & Pacific Railway.

The Brown Lumber Company have about 8,000,000 feet of timber on the line of the Camp Curtis branch of the Louisiana & Pacific Railway; said Company has about 6,000,000 feet of 7 timber on the Lilly Junction branch and about the same amount on the De Ridder branch, or a total of about 20,000,000 feet of timber on the lines of the Louisiana & Pacific Railway.

From June 1, 1911, to May 1, 1912, the Brown Lumber Company moved 3,428,162 feet of logs over the Louisiana & Pacific road. Since May 1, 1912, they have only shipped 97,405 feet over this road, for the reason that on account of the decision of the Interstate Commerce Commission, hereinafter complained of, they were unable

to ship without a loss, and they cannot reach their timber over the Lake Charles & Northern.

There are also several million feet of timber which the Brown Lumber Company had examined and expected to purchase had it not been for said decision.

There is also located at Bannister the W. A. Brown Mercantile Company, which operates a store and sells goods to the surrounding country.

At De Ridder there is the Waters-Pierce Oil Company, the Gulf Refining Company, an ice company (all of which are reached by the tracks of the Louisiana & Pacific Railway), a bottling works and more than thirty mercantile houses, all or most of which ship over the Louisiana & Pacific Railway.

Between De Ridder and Bon Ami, extending almost from the city limits of one town to the other, is a large experimental farm, containing 480 acres of land, on which farm has been expended \$65,-

8 000.00 in demonstrating what the soil in this section of the country will produce; and it has been demonstrated that this land, which is no better than the other land along the main and branch lines of the Louisiana & Pacific, will produce peaches, figs, pears, plums, grapes, oranges, and almost all kinds of fruit, potatoes, corn, half and alfalfa, and that this whole section of country is a splendid fruit country.

On this farm is a large cannery with a daily capacity of 300 ton-ounce jars, 270 sixteen-ounce jars and 700 four-ounce jars.

Quantities of fruits, vegetables and farm products are shipped from this farm at the station called Experimental Farm over the Louisiana & Pacific Railway.

Cut-over land between De Ridder and Bundick has recently sold for \$25.00 an acre and the current price of such land in this section is from \$10.00 to \$15.00 an acre. Agricultural land between De Ridder and Bundick ranges from \$10.00 to \$30.00 per acre and upward.

At Longville, besides the Longville Lumber Company, there is a large mercantile establishment, which sells goods, wares and merchandise of all kinds, not only to the citizens of Longville, but to the surrounding country, much of which is shipped in over the Louisiana & Pacific Railway.

At Fulton, Louisiana, there is a general merchandise store.

At Gaytine, Louisiana, there is located the Calcasieu Naval Stores Company, which ships turpentine and rosin over the Louisiana & Pacific Railway.

At Bon Ami, the King-Ryder Mercantile Company, a general store.

9 The Losg-Bell Naval Stores Company, a company the majority of whose stock is owned by stockholders having no interest in the Louisiana & Pacific Railway, is engaged in the business of selling naval stores products, such as turpentine and rosin, and gets its products from trees growing in the vicinity of Bundick on the Bundick branch of the Louisiana & Pacific Railway, and

ships all its products over this branch and over the main line of the Louisiana & Pacific Railway, to the market.

For the year 1911 it shipped 520,240 pounds of rosin and 34,431 gallons of turpentine.

Near the station of Walla, upon the Bon Ami branch of the Louisiana & Pacific Railway, is located the G. R. Harris Lumber Company, which, up to the 1st day of May, 1912, was engaged in the sawmill business, and was a shipper over the Louisiana & Pacific Railway.

No stockholder in said company has any interest in any stock of the Louisiana & Pacific Railway, nor in any of the petitioner's lumber companies herein; and none of the stockholders in any of the petitioners herein have any interest in the Harris Lumber Company.

For the eight months preceding the 1st of May, 1912, the Harris Lumber Company shipped lumber and forest products over the Louisiana & Pacific Railway to the extent of 52 cars.

Lake Charles, Louisiana, is a large jobbing center with all the various lines of industries to be found in a city of its size, many of which ship over the Louisiana & Pacific.

The following are true and correct statements in reference to the tonnage on the Louisiana & Pacific Railway Company for the period stated, to-wit:

10 *Statement of Lumber and Forest Products Originating on the Louisiana & Pacific Railway for the Fiscal Years Ending June 30th, 1908, 1909, 1910, and 1911, in Tons.*

1908.....	137,457 tons
1909.....	200,717 tons
1910.....	243,122 tons
1911.....	270,960 tons

The following tonnage which is included in the above figures was originated by mills other than the petitioner mills above mentioned, and in which the stockholders in the petitioners are in no wise interested:

1908.....	973 tons
1909.....	684 tons
1910.....	675 tons
1911.....	4,393 tons

The following tonnage, consisting of lumber and forest products, was originated on and by the Louisiana & Pacific during the period July 1, 1911, to April 30, 1912: 215,172 tons.

Of this amount 70,138 tons were shipped by parties in no way connected with the above named petitioners.

11 *Statement of Merchandise Received from Various Connections of the Louisiana & Pacific Railway for Period July 1st, 1911, to April 30th, 1912. By Stations.*

From—	Destined to—	Tons.	L. & P. Rev.
Kans. City Southern Ry . . .	Bundick, Louisiana . .	140	\$165.26
	Bon Ami, " . .	67	95.78
	Walla, " . .	672	719.49
	Bannister, " . .	25	57.90
	Longville, " . .	458	743.88
	Camp Curtis, " . .	74	98.21
	Fulton, " . .	16	18.74
	Gillis, " . .	1	9.46
	Turps, " . .	18	29.02
	Belfield, " . .	...	.22
	Vandercok, " . .	21	23.94
	Lake Charles, " . .	158	183.35
Total		1,650	\$2,145.25

For Petitioner Lumber Co.'s:

	Tons.	Revenue.
Carloads	1,029}	\$1,432.96
L. C. L.	56{	

For Other than Petitioner Lumber Co.'s:

Carloads	545}	712.29
L. C. L.	20{	
1,650		\$2,145.25

From—	Destined to—	Tons.	Revenue.
Gulf, Colo. & Santa Fe Ry. . .	Bundick, Louisiana . .	...	.25
	Bon Ami, " . .	13	28.41
	Walla, " . .	1	3.12
	Longville, " . .	76	130.30
	Fulton, " . .	...	1.64
	Lake Charles, " . .	...	.25
Total		90	\$162.97

For Petitioner Lumber Co.'s:

	Tons.	Revenue.
Carloads	84}	\$139.79
L. C. L.	2{	

For Other than Petitioner Lumber Co.'s:

Carloads	24.18
L. C. L.	4{	
90		\$163.97

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From—	Destined to—	Tons.	Revenue.
New Orleans, Texas & Mexico			
Railroad Co.....	De Ridder, La...	874	\$1,083.84
	Bundick, "...	38	54.64
	Bon Ami, "...	132	286.12
	Walla, "...	38	68.21
	Bannister, "...	2	8.61
	Longville, "...	245	647.96
	Camp Curtis, "...	42	56.79
	Gaytime, "...	...	1.79
	Turps, "...	24	21.42
	Gillis, "...	10	32.29
	Lake Charles, "...	1,337	1,759.87
Total.....		2,742	\$4,021.54
For Petitioner Lumber Co.'s:			
		Tons.	Revenue.
	Carloads	846}	\$1,695.08
	L. C. L.....	234}	
For Other than Petitioner Lumber Co.'s:			
	Carloads	1,373}	2,326.46
	L. C. L.....	289}	
		2,742	\$4,021.54
From—	Destined to—	Tons.	Revenue.
St. Louis, Iron Mountain & Southern Railway.....			
	De Ridder, La...	310	\$438.50
	Bundick, "...	18	35.79
	Bon Ami, "...	85	170.82
	Walla, "...	70	92.74
	Bannister, "...	18	29.32
	Longville, "...	228	462.55
	Vandercook, "...	86	116.55
	Camp Curtis, "...	144	177.37
	Gillis, "...	150	180.92
	Turps, "...	85	104.05
	Gaytime, "...	...	1.09
Total.....		1,194	\$1,809.70
For Petitioner Lumber Co.'s:			
		Tons.	Revenue.
	Carloads	498}	\$921.98
	L. C. L.....	82}	
For Other than Petitioner Lumber Co.'s:			
	Carloads	586}	887.72
	L. C. L.....	28}	
		1,194	\$1,809.70

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From—	Destined to—	Tons.	Revenue.
Southern Pacific Lines, Louisiana Western Railway			
De Ridder,	La. . . .	399	\$684.16
Bundick,	"	34	51.65
Bon Ami,	"	37	76.00
Walla,	"	41	63.30
Bannister,	"	1	4.44
Longville,	"	186	295.03
Camp Curtis,	"	34	75.45
Fulton,	" . . . .	...	3.12
Gillis,	" . . . .	...	2.87
Gaytime,	" . . . .	...	.19
Total		732	\$1,256.21

For Petitioner Lumber Co.'s:

	Tons.	Revenue.
Carloads	267	\$639.77
L. C. L.	102	

For Other than Petitioner Lumber Co.'s:

Carloads	355	616.44
L. C. L.	8	
732		\$1,256.21

Recapitulation.

From—	Tons.	L. & P. Rev.
Kansas City Southern Railway	1,650	\$2,145.25
Gulf, Colorado & Santa Fe Ry.	90	163.97
New Orleans, Texas & Mexico R. R.	2,742	4,021.54
St. Louis, Iron Mountain & Sou. Ry.	1,194	1,809.70
Sou. Pac. Lines, La. Western Ry.	732	1,256.21
Grand total	6,408	\$9,396.67

For Petitioner Lumber Co.'s:

	Tons.	Revenue.
C. L.	1,029	\$1,432.96
L. C. L.	56	
C. L.	84	139.79
L. C. L.	2	
C. L.	846	1,695.08
L. C. L.	234	
C. L.	498	921.98
L. C. L.	82	
C. L.	267	639.77
L. C. L.	102	
3,200		\$4,829.58

For Other than Petitioner Lumber Co.'s:

	Tons.	Revenue.
C. L.....	545/	
L. C. L.....	20)	\$712.29
C. L.....	...}	
L. C. L.....	4)	24.18
C. L.....	1,373}	
L. C. L.....	289)	2,326.46
C. L.....	586)	
L. C. L.....	28)	887.72
C. L.....	355)	
L. C. L.....	8)	616.44
	<hr/> 3,208	<hr/> \$4,567.09
Grand total . . .	6,408	\$9,396.67

The following is a recapitulation of freight handled during the year ending June 30, 1912:

The following is a recapitulation of freight handled during the year ending June 30, 1912:

(Here follows table of freight handled, etc., marked page 15.)

Recapitulation of Freight

	Petitioner Lq	
	Lumber.	
	Tons.	Revenue.
Interstate outbound.....	230,643	\$178,079.51
Interstate inbound.....	.....	.....
Total interstate.....	230,643	\$178,079.51
State outbound.....	25,198	12,219.16
State inbound.....	2,794	844.85
Total State.....	27,992	\$13,064.01
Grand total.....	258,635	\$191,143.52

LOUISIANA & PACIFIC RAILWAY COMPANY.

Recapitulation of Freight Handled During Year Ending June 30, 1912.

Petitioner Lumber Company's Mills.						Others.					
Lumber.		Miscellaneous.		Other Forest Prods.		Lumber.		Miscellaneous.		Other Forest Prods.	
Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.
230,643	\$178,079.51	45	\$62.32	...	.....	7,119	\$5,852.69	549	\$662.97	...	.....
.....	.....	2,073	3,454.24	...	.....	.....	.....	1,923	3,339.84	...	.....
230,643	\$178,079.51	2,118	\$3,516.56	...	.....	7,119	\$5,852.69	2,472	\$4,002.81	...	.....
25,198	12,219.16	2,320	3,311.65	...	.....	10,433	7,044.99	1,994	5,553.52	30	\$19.50
2,794	844.85	3,534	6,424.64	180	\$72.00	179	154.95	2,286	4,761.75	30	19.50
27,992	\$13,064.01	5,854	\$9,736.29	180	\$72.00	10,612	\$7,199.94	4,280	\$10,315.27	60	\$39.00
258,635	\$191,143.52	7,972	\$13,252.85	180	\$72.00	17,731	\$13,052.63	6,752	\$14,318.08	60	\$39.00

16 The stock of the Louisiana & Pacific Railway Company is owned by six stockholders absolutely in their own right and not in trust for any other person. Stockholders owning a majority of the stock in the said railroad also own a majority of the stock in the petitioners Lumber Companies, but there are stockholders owning \$1,360,495.00 of stock in said Lumber Companies who have absolutely no interest in the Louisiana & Pacific Railway Company.

The Louisiana & Pacific Railway Company, pursuant to the powers given to it by its charter, has issued outstanding bonds to the amount of \$442,300 and secured by deed of trust, the holders of which bonds are various and scattered, and a large amount of said bonds are held by various banks, corporations, trust companies and individuals having no stock in or otherwise interested in the Louisiana & Pacific Railway Company.

The list of said bondholders and the amount of their holdings is as follows:

Mary King	\$1,000
Calcasieu Trust & Savings Co.....	39,300
H. E. Sweet.....	5,000
Mrs. C. A. Paxson.....	5,000
C. E. Moore.....	2,000
L. C. Congdon.....	4,000
F. A. Clapp.....	3,500
Geo. Kingery	8,500
W. F. Ryder and L. L. Ryder.....	81,500
C. E. Ryder.....	1,000
J. H. Lane.....	400
A. L. Sweet.....	6,400
.....	1,500
First National Bank, Kansas City.....	25,000
Southwest National Bank Commerce.....	36,800
Commerce Trust Co.....	15,000
17 Lumberman's National Bank.....	25,000
Cora Smith	1,000
Gate City National Bank.....	5,000
S. M. Morris.....	1,500
Charles Calise	200
Susan A. Morris.....	3,000
H. M. Baker.....	1,200
Mrs. C. A. Neal.....	500
Lufkin Land & Lumber Company.....	7,900
Calcasieu Long Leaf Lumber Co.....	32,700
Hudson River Lumber Co.....	50,100
King-Ryder Lumber Co.....	41,200
Longville Lumber Co.....	37,100
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	\$442,300

The stockholders and the amount of stock held by them in the Louisiana & Pacific Railway Company is as follows:

Name.	Value.
R. A. Long.....	\$40,290.00
Ella M. Long.....	510.00
C. B. Sweet.....	4,590.00
Jennie L. Sweet.....	510.00
F. J. Bannister.....	4,590.00
Edith M. Bannister.....	510.00

The stockholders of the King-Ryder Lumber Company and the amount of stock held by them is as follows:

Holders.	Amount.
R. A. Long.....	\$89,850.00
J. H. Foresman.....	800.00
W. L. Prickett.....	100.00
C. B. Sweet.....	1,000.00
R. A. Long.....	1,000.00
B. H. Smith.....	10,000.00
F. J. Bannister.....	100.00
W. F. Ryder.....	8,000.00
18 Mrs. Ray Wilson-Heath.....	1,500.00
R. A. Long, Curator.....	1,500.00
J. G. Pontious.....	1,000.00
L. Hayman.....L.....	150.00
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	\$115,000.00

The stockholders of the Hudson River Lumber Company and the amount of stock held by them is as follows:

R. A. Long.....	\$129,640.00
L. Haymann.....	200.00
C. H. Dodd.....	100.00
F. J. Bannister.....	125.00
C. B. Sweet.....	1,500.00
H. E. Sweet.....	6,415.00
A. L. Sweet.....	3,000.00
C. A. Paxson.....	4,410.00
F. A. Clapp.....	2,940.00
L. C. Congdon.....	1,470.00
C. E. Moore.....	200.00
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	\$150,000.00

The stockholders of the Longville Lumber Company and the amount of stock held by them is as follows:

F. J. Bannister.....	\$7,500.00
M. L. Blackwell.....	1,000.00
J. W. Bolton.....	5,000.00
Vinnie F. Brake.....	1,000.00
E. G. Cates.....	1,000.00

L. M. Covey	1,000.00
Clare J. Cowley	500.00
Florence Cowley	1,000.00
J. W. Deal	1,000.00
J. H. Derks	3,000.00
Mrs. Sallie A. Ellis	500.00
R. L. Evans	1,000.00
19 Mrs. Ray A. Gloekler	2,500.00
C. A. Huffman	1,000.00
Robert Jemison	1,500.00
Miss Loula Long	1,000.00
Mrs. Ella Long	1,200.00
R. A. Long	488,700.00
L. Hayman	2,000.00
F. E. Martin	1,000.00
W. E. McNair	4,000.00
G. W. O'Halloran	1,000.00
J. G. Pontius	1,000.00
W. L. Prickett	10,000.00
Mollie E. Ridgeway	1,300.00
H. T. Roehl	3,000.00
L. L. Ryder	2,000.00
W. F. Ryder	10,000.00
C. T. Scott	500.00
B. H. Smith	18,000.00
J. M. Sowards	2,000.00
Robert Stack	5,500.00
R. S. Stack	300.00
O. L. Ewitzer	1,000.00
C. B. Sweet	11,000.00
Walter L. Taylor	1,000.00
C. J. Tucker	1,000.00
Wesley Vandercook	1,000.00
Mrs. R. D. Wilson	4,000.00
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	\$600,000.00

The stockholders of the Calcasieu Long Leaf Lumber Company and the amount of stock held by them are as follows:

R. A. Long	\$992,900.00
F. J. Bannister	10,000.00
J. H. Bester	3,200.00
Vinnie Brake	2,000.00
L. C. Baxter	1,000.00
Hardin Bale	1,000.00
C. M. Boswell	2,000.00
E. W. Brown	1,000.00
Ida M. Bannister	500.00
20 Roscoe R. Brannin	500.00
Clare J. Cowley	500.00

Mrs. Florence J. Cowley.....	1,000.00
F. A. Clapp.....	5,000.00
O. F. Carson, Jr.....	800.00
L. C. Congdon.....	2,000.00
Mrs. Elsie Cook.....	500.00
R. S. Davis.....	3,000.00
Jessie B. Davis.....	300.00
Mrs. Sallie A. Ellis.....	2,000.00
E. K. Elliott.....	500.00
A. W. Fegly.....	500.00
J. H. Foresman.....	5,000.00
J. A. Foresman.....	2,000.00
J. W. Garvey.....	5,000.00
A. L. Garten.....	1,000.00
Mrs. G. W. Gittings.....	1,000.00
E. F. Gordon.....	1,500.00
J. A. Graye.....	2,800.00
J. W. Garrett.....	500.00
A. A. Hammer.....	10,000.00
Robert E. Hoyt.....	1,000.00
Geo. S. Hays.....	1,000.00
Mrs. Hattie R. Hackett.....	500.00
Mrs. Ray Wilson Heath.....	2,000.00
Robt. Jemison.....	1,000.00
W. N. Kerr.....	2,000.00
C. D. Kenneson.....	500.00
Mrs. R. A. Long.....	1,700.00
Roy T. Lestor.....	1,000.00
P. P. Lewis.....	1,500.00
N. A. Moore.....	1,000.00
F. E. Mason.....	3,000.00
S. M. Morris.....	2,000.00
G. A. Morey.....	2,000.00
J. L. Masters.....	500.00
Mrs. Inez Martin Morse.....	1,000.00
J. W. Martin.....	8,000.00
J. M. Magness.....	1,000.00
F. E. Martin.....	500.00
M. N. Meyer.....	1,000.00
M. B. Nelson.....	3,000.00
J. M. Nicholls.....	2,000.00
21 C. A. Paxson.....	2,000.00
Wm. Peters.....	3,000.00
W. L. Prickett.....	2,000.00
A. C. Ruth.....	1,000.00
W. F. Ryder.....	5,000.00
L. L. Ryder.....	3,000.00
P. C. Rickey.....	3,000.00
R. R. Roth.....	500.00
C. E. Ryder.....	1,000.00
J. M. Ragland.....	3,000.00

C. B. Sweet.....	20,000.00
A. L. Sweet.....	3,000.00
H. E. Sweet.....	8,000.00
C. T. Scott.....	1,000.00
B. H. Smith.....	8,000.00
H. L. Smith.....	500.00
R. W. Swank.....	3,500.00
Robert Stack.....	2,000.00
L. Haymann.....	1,000.00
C. A. Talcott.....	2,000.00
J. D. Tennant.....	2,000.00
C. J. Tucker.....	3,500.00
Mrs. J. E. Tyler.....	2,000.00
Mrs. Robbie Read Tyler.....	3,300.00
Uncapher.....	500.00
Wesley Vandercook.....	1,000.00
S. T. Woodring.....	21,000.00

\$1,200,000.00

2. That the petitioners Hudson River Lumber Company, King-Ryder Lumber Company, Calcasieu Long Leaf Lumber Company, and the Longville Lumber Company are each of them corporations organized under the laws of the State of Missouri, for the purpose of manufacturing and selling timber and lumber, and all owning timber lands for the purpose of obtaining timber therefrom to manufacture into lumber; each of said companies owns and operates a lumber mill, planing mill and plant for the manufacture of
 22 lumber along the line of the road of the petitioner Louisiana & Pacific Railway Company, said mills being located respectively at De Ridder, Bon Ami, Lake Charles and Longville, Louisiana; each of said Lumber Companies is a large shipper over the Louisiana & Pacific Railroad.

3. The petitioner The Long-Bell Lumber Company is a corporation organized under the laws of the State of Missouri, for the purpose of engaging in the wholesale and retail lumber business. It acts as a selling agent for the product of the lumber companies herein last above mentioned, and it is a party to the contracts hereinafter set out.

4. That the respondents Louisiana Western Railroad Company, Morgan's Louisiana & Texas Railway & Steamship Company, the New Orleans, Texas & Mexico Railway Company, are each corporations organized under the laws of the State of Louisiana; the Louisiana Western Railroad Company owns and operates a railroad from the town of Lafayette, in Louisiana, to the western line of the State of Louisiana; Morgan's Louisiana & Texas Railway & Steamship Company owns and operates a line of railroad from the town of Lafayette, Louisiana, to the cities of New Orleans and Baton Rouge, Louisiana, and also a line of railway from the town of Lafayette, in a northwesterly direction through the State of Louisiana; and said

companies, the Louisiana Western Railroad Company and Morgan's Louisiana & Texas Railway & Steamship Company, are parts of what is generally known as the Southern Pacific System, and together constitute one line of railroad between New Orleans and the western line of the State of Louisiana, and constitute a part of a continuous line of railroad from New Orleans to San Francisco, generally known as the Southern Pacific System, and are managed and controlled by the same interests.

23 The respondent New Orleans, Texas & Mexico Railway Company is a corporation organized under the laws of the State of Louisiana and owns and operates a line of railway from the cities of New Orleans and Baton Rouge to the city of Houston, Texas, and is a part of what is known as the "Frisco System."

5. The St. Louis & San Francisco Railroad Company is a railroad corporation organized under the laws of the State of Missouri, and owns and operates railroads in the States of Louisiana, Arkansas, Missouri, Texas and elsewhere.

6. That on or about the 28th day of January, 1908, the Interstate Commerce Commission entered upon a hearing and investigation in a certain cause entitled "Star Grain & Lumber Company et al. v. Atchison, Topeka & Santa Fe Ry. Co. et al., Docket No. 1319." Hearings were had at various times and places, and on the 23d day of June, 1908, the Interstate Commerce Commission made a report and rendered an opinion, which report and opinion will be found in the 14 Interstate Commerce Commission Reports, at page 364 et seq., reference to which is hereby made. Further hearings were thereafter had in said case of Star Grain & Lumber Company et al. v. Atchison, Topeka & Santa Fe Railway Company et al., Docket No. 1319, and on December 7, 1909, respondent the Interstate Commerce Commission made a supplemental report, which is published in the 17th Interstate Commerce Commission Reports, at page 24 338 et seq., reference to which supplemental report is hereby made, and the same is made a part hereof as fully as if set out herein.

7. By reason of the rendition of this report and opinion, and because the Interstate Commerce Commission demanded under threat of criminal prosecution that they comply with the requirements thereof, the trunk line railroad companies of the United States, or a large number of them, including the respondent Railroad Companies herein, about the month of August, 1910, filed with the Interstate Commerce Commission new tariffs or supplemental tariffs on lumber, to become effective in thirty days, which new tariffs or schedules canceled all joint tariffs which the said respondent Railway Louisiana & Pacific Railway Company, and except for the order of the Interstate Commerce Commission, set out in paragraph 8 hereof, would have left said petitioner without any joint interstate rates or through routes on lumber with the other railroads of the country.

8. Thereupon the Interstate Commerce Commission made and entered of record an order, in words and figures as follows, to-wit:

At a General Session of the Interstate Commerce Commission, Held at Its Office in Washington, D. C., on the 3d Day of September, A. D. 1910.

Docket No. 3400. Sub. 7.

In the Matter of the INVESTIGATION AND SUSPENSION OF SUPPLEMENT No. 3 to I. C. C. No. 23, Filed by the Texas & New Orleans Railroad Company, the Galveston, Harrisburg & San Antonio Railway Company, Houston & Texas Central Railroad Company, Houston, East & West Texas Railroad Company, Houston & Shreveport Railroad Company, Louisiana Western Railroad Company, and Morgan's Louisiana & Texas Railroad Company.

It appearing from the records of the Interstate Commerce Commission that there has been filed with the Commission by the Texas & New Orleans Railroad Company, the Galveston, Harrisburg & San Antonio Railway Company, Houston & Texas Central Railroad Company, Houston, East & West Texas Railroad Company, Houston & Shreveport Railroad Company, Louisiana Western Railroad Company, and Morgan's Louisiana & Texas Railroad Company, schedule designated as Supplement No. 3 to I. C. C. No. 23, effective 10th day of September, 1910, which schedule states new individual or joint rates, fares or charges, applicable upon the articles named therein, that are in excess of the rates, fares and charges now in effect,

It is ordered that the Commission, upon complaint, without formal pleading and without answer by the interested carriers, do enter upon a hearing concerning the propriety of such advances and the lawfulness of the rates, fares, or charges stated in said schedule, with a view to making such order in the premises as may, after full hearing, seem just and proper; and that such hearing be held at such time and place as may be hereafter fixed by the Commission.

The Commission being further of the opinion that, pending such hearing and decision of the Commission concerning the propriety of such rates, fares or charges, the operation of such schedule should be postponed for the reason that from a consideration of the character and amount of the advances and the circumstances under which they have been made, it appears to the Commission there is sufficient ground for claiming that said advances are unlawful and that the rates, fares or charges established by said schedule are unjust and unreasonable, and therefore unlawful, and that the public interest requires that the operation of said schedule be deferred until sufficient time has been given for an investigation by this Commission.

It is further ordered that the operation of the aforesaid schedule be suspended, and that the use of the rates, fares or charges therein specified be deferred until January 5, 1911.

It is further ordered that the several carriers above named that have filed schedules be and they are hereby made defendants to this

proceeding, and that a copy of this order be forthwith served upon each of them; and

It is further ordered that the carriers named in said schedule and supplements thereto as participating therein be and they are hereby made defendants to this proceeding, and that a copy of this order be forthwith served upon each of them.

A true copy.

EDW. A. MOSELEY, *Secretary.*"

Thereupon the Interstate Commerce Commission made similar orders on or about the same date, suspending the operation of the schedules of various other railroad companies within the United States, and thereby kept in force and effect the joint tariffs and the maintenance of through routes and joint rates between the petitioner Louisiana & Pacific Railway Company and the respondent railroad companies herein mentioned, and the various other trunk line railroads and systems of the United States for a period of 120 days. Reference to which orders is hereby made and the same are made a part hereof.

And the said Interstate Commerce Commission, from time to time, continued by appropriate orders, similar in form to the order hereinabove set out, the suspension of the cancellation of rates between various railroad companies of the United States, including the respondent railroad companies, and the petitioner the Louisiana & Pacific Railway Company, until the end of the 30th day of April, 1912; the last of said orders being in words and figures as follows, to-wit:

"At a General Session of the Interstate Commerce Commission, Held at Its Office in Washington, D. C., on the 16th Day of January, A. D. 1912,

Charles A. Prouty, Judson C. Clements, Franklin K. Lane, Edgar E. Clark, James S. Harlan, Charles C. McChord, Balthasar H. Meyer, Commissioners,

Investigation and Suspension Docket No. 11.

In the Matter of the INVESTIGATION AND SUSPENSION OF SCHEDULES Canceling Through Rates with Certain Tap Line Connections.

It Appearing That, by orders heretofore entered, the Commission instituted an investigation and hearing concerning the propriety of various tariffs filed by certain carriers wherein joint rates with and divisions or allowances to so-called tap line connections were to be canceled and withdrawn; and the Commission, by orders duly filed and served, having suspended and deferred the effectiveness of such tariffs until June 1, 1911; and that under authority of an order entered herein on May 18, 1911, the various carriers withdrew their said tariffs canceling such divisions or allowances and refiled them to

become effective on November 1, 1911; and that under authority of a further order entered herein on October 16, 1911, the various carriers withdrew their said tariffs canceling such divisions or allowances, and refiled them to become effective on February 1, 1912; and,

It Further Appearing, That a full investigation of the said matters has been had, but it has been impossible for the Commission to reach a final decision of the questions and matters involved within the period for which the operation of the said schedules has been voluntarily postponed by the carriers; namely, on or before February 1, 1912; and,

It Further Appearing, That the various carriers by which the cancellations in question were published, republished and filed with the Commission are desirous of withdrawing the said cancellation tariffs and refiled them, thereby further postponing their effectiveness to May 1, 1912;

It Is Ordered, That each and all of the carriers that are parties to this record be, and they are hereby, authorized on three days' notice to the Commission and to the public, to cancel and withdraw all such tariffs filed with the Commission, and under their present terms to become effective on or before February 1, 1912, in which are contained cancellations or withdrawals of joint rates or divisions with or allowances to so-called tap line connections, and, Provided, the said tariffs are forthwith refiled to become effective on May 1, 1912;

It Is Further Ordered, That all tariffs or supplements issued under authority of this order shall bear the following notation on title page:

Issued by authority of the Interstate Commerce Commission's Order of January 16, 1912, in Investigation and Suspension Docket No. 11.

A true copy.

C. A. PROUTY, *Chairman.*"

9. Pursuant to the orders of date the 3d day of September, 1910, one of which is hereinabove fully set out, the Interstate Commerce Commission did enter upon a further hearing of the matter of the propriety of the advances and the lawfulness of the rates, fares or charges, stated in said schedules, mentioned in said orders, and thereupon, and on the 15th day of November, 1910, gave to the petitioner the Louisiana & Pacific Railway Company, and to various other-railroad companies in the United States, including respondent railroad companies herein, a notice in words and figures as follows, to-wit:

"NOVEMBER 15, 1910.

Docket No. 1319.

STAR GRAIN AND LUMBER COMPANY et al.

vs.

ATCHISON, TOPEKA & SANTA FE RY. Co. et al.

In the Matter of TAP LINE ALLOWANCES AND DIVISIONS, BEING
Docket Nos. 3400, Sub. 6, 3400, Sub. 7, 3493, 3511, 3512, 3513,
3514, 3524, 3548, 3551, 3552 and 3564 Consolidated under In-
vestigation and Suspension Docket No. 11.

The above entitled proceedings are assigned for hearing on Thurs-
day, December 9, 1910, 10 o'clock a. m., at United States Court
rooms, New Orleans, Louisiana.

By THE COMMISSION,

EDW. A. MOSELEY, *Secretary.*"

Your petitioners aver that notwithstanding that by the Act to
Regulate Commerce it is required that the Commission serve upon the
defendants in any proceeding before it a copy of the petition with
directions to answer the same or to satisfy the petition, nevertheless,
no such service was made upon the defendants and no answers were
made by said defendants to said petition before the said Interstate
Commerce Commission.

30 Pursuant to said notice and the orders of the Interstate
Commerce Commission hereinabove set forth, the petitioner
the Louisiana & Pacific Railway Company, together with numerous
other railroad companies, appeared before the Interstate Commerce
Commission, at New Orleans, on December 8, 1910, and subsequent
days, and at St. Louis, Missouri, and at Chicago, Illinois, upon ad-
jourments of said hearing, and thereupon the Honorable James S.
Harlan, one of the Interstate Commerce Commissioners, examined
the officers and agents of the petitioner the Louisiana & Pacific Rail-
way Company, concerning the matters under investigation in said
proceeding, and said petitioner Louisiana & Pacific Railway Company
also thereafter submitted to the Interstate Commerce Commission
certain documentary evidence, by filing the same with the secretary
of said Commission at Washington; and thereafter, and within the
time fixed by the Commission, said petitioner filed with the Inter-
state Commerce Commission a statement of facts, abstract of the evi-
dence which had been taken before said Commission, in reference to
said petitioner, and a brief and argument, reference to which state-
ment and brief is hereby made, and in said statement and
brief said petitioner the Louisiana & Pacific Railway Company
petitioned the Interstate Commerce Commission in words as follows,
to-wit:

"While this Commission has not all of the powers of a court of
equity, and while we recognize that if the Louisiana & Pacific is not
entitled to through routes and joint rates and fair divisions, its con-
tracts will not give it that right, yet with these contracts existing,

31 with the vested rights based thereon and on the previous decisions of this Commission, we respectfully and most earnestly ask that this Commission, under its power to compel the trunk line railroad companies to maintain through routes and joint rates, issue an order to those trunk line roads to continue the through routes and joint rates heretofore existing with the Louisiana & Pacific."

At the beginning of said hearing at New Orleans on December 8, 1910, the Honorable James S. Harlan, the commissioner presiding at said hearing, made the announcement to the parties interested and appearing at said hearing, that each so-called "Tap Line" would be treated as though it had filed a formal petition.

There was also filed before the Interstate Commerce Commission in said case of Star Grain & Lumber Company et al. v. Atchison, Topeka & Santa Fe, "Investigation and Suspension Docket No. 11," a "Brief and Argument for Various Tap Lines," signed by H. M. Garwood, N. S. Brown and Luther M. Walter, which contained, among other things, the following:

"The facts, therefore, of each case are so widely divergent as to render classification impossible, and to necessitate, however burdensome it may become, the analysis of the facts of each case. It would be unjust to the several lines above, many of which are not represented by the writers of this brief, to undertake any arbitrary classification, and we therefore invoke as a part of that due process of law to which each is entitled, the examination by this body of the facts of each case and the entry of a special and separate order thereon, to the end that the rights of each line may be duly regarded."

32 And at the close of said brief was the following:

"We submit, therefore, with confidence that the basic questions underlying this investigation have been fully and carefully decided by the decisions of this Commission, by the practices in accordance therewith extending over a long period of years, by the decisions of our courts, state and federal, by the approval of the Federal Congress; and that investments made in full accord with the constitutions and laws of the several states, with the approval of Congress, and under the prior decisions of this Commission, ought not now to be confiscated in the absence of clear legislative requirement; and that railway corporations legally formed, sustaining all the burdens of state and federal legislation, and assuming, under charters legally issued, all of the common law and statutory obligations of a common carrier, cannot here be denied the right to engage in interstate commerce, establish through rates with connecting carriers and joint rates applicable thereto."

The said brief and the request therein for the entry of a special and separate order in each case was filed on behalf of the petitioner the Louisiana & Pacific Railway Company among others.

10. On the 29th day of April, 1912, the Interstate Commerce Commission rendered an opinion, No. 1853, entitled "Investigation and Suspension Docket No. 11, the Tap Line Case," which opinion will be found in the 23d Interstate Commerce Commission Reports, p. 277, et seq., reference to which opinion is hereby made, and which is made a part hereof, as fully as if set out herein in full.

And in said opinion and supplemental report is the following, to-wit:

33 "The cancellations by the trunk lines will be allowed to become effective on May 1, as provided in the tariffs now on file."

Your petitioners then believed and now believe that in and by said opinion and supplemental report and by the language hereinabove last quoted the Interstate Commerce Commission made an order authorizing, permitting and commanding the trunk line railroad companies of the United States, including the respondent railroad companies herein, to cancel all joint inter-state rates on lumber with the petitioner the Louisiana & Pacific Railway Company, on the 1st day of May, 1912.

And said trunk line companies of the United States, including the respondent railroad companies, have construed said opinion herein last above referred to, as an order from the Commission to cancel said joint rates and tariffs with the petitioner the Louisiana & Pacific Railway Company, and now have canceled and have ceased to maintain any joint tariffs or through routes and joint rates with said petitioner on lumber. And the Interstate Commerce Commission, through its secretary, notified the trunk line railroads of the United States that said cancellation did take effect at midnight on the 30th day of April, 1912, and that rates, as filed, must be observed by carriers and shippers, if criminal violation of Interstate Commerce Act and Elkins Act is to be avoided.

Your petitioners further state that while "the matter of the investigation and suspension of schedule canceling through rates with certain tap line connections, Investigation and Suspension Docket No.

34 11," was pending before the Commission upon the application of the petitioner Louisiana & Pacific Railway Company, and on account of the course of procedure which had theretofore been taken by the Interstate Commerce Commission, your petitioners were led to believe, had the right to believe, and did believe that the Interstate Commerce Commission would further postpone the effectiveness of the tariffs referred to in the order of January 16, 1912, hereinbefore set out, until after the Interstate Commerce Commission had rendered its opinion and made its order in said cause.

Your petitioners further state that the Opinion No. 1853 and the order contained therein, hereinbefore referred to, and reported in the 23d Interstate Commerce Reports, at page 277, et seq., purports to have been decided, and is dated on April 23, 1912. But your petitioners allege that said opinion was not made public until the 29th day of April, 1912, and if it was rendered on the 23d day of April, all knowledge and information thereof was withheld from your petitioners, and the public generally, and your petitioners had no opportunity to know the contents thereof until about 4 o'clock in the afternoon of April 29, 1912, and a copy of said opinion was not received by your petitioners until after the 30th day of April, 1912, by reason of which your petitioners were unable, on account of lack of time, to prepare any petition or application for injunction to this, or any other, Court, to prevent the cancellation of rates by the respondent

railroad companies becoming effective as hereinabove stated, or, before the 1st day of May, 1912, to make any application to this Court to enjoin, set aside and annul the order of the Interstate Commerce Commission hereinbefore set out.

35 Your petitioners further state that on the 1st day of June, 1912, the Interstate Commerce Commission made a supplemental report entitled "Investigation and Suspension Docket No. 11, the Tap Line Case," Opinion No. 1898, which is reported in the 23d Interstate Commerce Reports, at page 549, reference to which is hereby made and which is made a part hereof as fully as if set out herein.

Said supplemental report or opinion, in so far as it relates to the so-called "Tap Line" case in general, and in so far as it makes a finding of the facts in reference to the petitioner Louisiana & Pacific Railway Company, is in words and figures as follows, to-wit:

Investigation and Suspension Docket No. 11, the Tap Line Case,
Decided May 14, 1912.

Supplemental Report of the Commission.

By the COMMISSION:

In the original report herein (ante, page 277), after stating the history of the several tap lines there mentioned and setting forth the salient features in connection with their ownership, physical condition, general character, source of traffic and revenue, and the manner in which their operations for the proprietary company are conducted, we found that in none of the cases there disposed of did the tap line perform a service of transportation, either in the movement of the products of the mill of the proprietary company or in the movement of its logs from the forest to its mill. We held that the service in each case, so far as the logs and lumber of the proprietary company are concerned, was a plant service. It was also said at the close of the report that in a supplemental opinion, to be

36 announced in the near future, we would state the facts in relation to all the other tap lines whose affairs are disclosed in the record before us, pointing out from among them such as, in the judgment of the Commission, bear a different relation to their respective proprietary lumber companies; and that in connection with the supplemental report we would enter such order with respect to all the tap lines before us as the conclusions announced might require.

Many of the tap lines described in this report differ only in detail from the lines described in the original report and consequently are controlled by the same principles. At the conclusion of the statement in each case we have noted a finding to which effect will be given in the order to be entered. It seems well, however, before describing the remaining tap lines of record, to call attention to a practice that finds frequent illustration in the pages that follow. In a number of cases, the tap line, without charge, hauls the logs of the lumber company that owns it. In other cases the lumber company

itself hauls its logs over the tap line rails to its mill. In some instances its right to do this is evidenced by a formal trackage contract; in other instances it is done under a verbal understanding. In some cases no charge is entered up by the tap line against the lumber company for this use of its tracks, and in a few cases the lumber company pays a small compensation. In several instances the trunk lines themselves have given trackage rights for a small toll to lumber companies. We have not understood that special privileges of this kind may lawfully be granted to a shipper. It is not uncommon for one railroad to give the use of its rails to another railroad under a trackage agreement, but we see no way in which a shipper may enjoy such a privilege over the rails of a common carrier, particularly when the compensation for the privilege is not published and the privilege is not open equally to other shippers.

37 Except in one or two cases where the tap line crosses the state boundary line, such arrangements are possibly to be regarded as purely local, and, therefore, beyond our control. But they are inherently unlawful, and afford strong evidence that a tap line whose rails are used in that manner by its proprietary lumber company is a mere plant facility. On the other hand, such an arrangement with a shipper, even though it be purely local, and, therefore, beyond our control, may nevertheless operate as a rebate and be punishable as such under this law when it appears that the concession is made in order to secure the interstate traffic of the shipper. All such arrangements are wrongful and we shall expect them to be discontinued. It may be well again to say that in the disposition made of these cases we have had in mind the special conditions that exist in this territory, and have taken such action as, under all the circumstances developed, seemed necessary in the prevention of unlawful discriminations and preferences. Doubtless, the same or generally similar conditions exist in other extensive lumber producing districts and may be duplicated elsewhere in connection with different classes of traffic. But it is obvious that matters of this nature cannot be dealt with in a wholesale manner, but must be considered separately and in the light of the surrounding conditions and special facts. It will, therefore, be fully understood that all that is here said is intended to relate specifically to the conditions found to exist in this territory. * * *

The Louisiana & Pacific Railway.

The Louisiana & Pacific Railway Company was incorporated June 6, 1904, with an authorized capital stock of \$200,000, of which only \$51,000 has been issued. It is controlled by what is referred to on the record as the R. A. Long interests, 70 per cent of its capital stock being held by R. A. Long, and the rest apparently by his agents and associates. The record indicates that Long owns the same proportion of the capital stock of the Hudson River
38 Lumber Company, King-Ryder Lumber Company, Longville Lumber Company and the Calcasieu Long Leaf Lumber Company, all of which have sawmills on the Louisiana & Pacific.

The Long-Bell Lumber Company, which is a part of the same general interest, does not manufacture lumber, but markets the output of these mills. Only \$30,000 of the capital stock of the tap line was issued for cash, and the balance was subsequently distributed to its stockholders as a stock dividend. It has outstanding bonds to the amount of \$582,200, which were issued for the purpose of taking up notes payable to the various lumber companies and covering purchases of track and equipment. All of the tracks of the Louisiana & Pacific, as hereinafter described, were originally constructed as private logging roads by the individual lumber companies.

The Lake Charles & Northern Railroad, which is owned by the Southern Pacific, extends from De Ridder, Louisiana, southward for a distance of about forty-six miles to Lake Charles. It was originally built by the R. A. Long interests as part of the Louisiana & Pacific, and was sold to the Southern Pacific, which thereupon incorporated the Lake Charles & Northern to operate the property. In the sale of the property to the Southern Pacific, however, the R. A. Long interests reserved to the Louisiana & Pacific the right of jointly operating the track between Lake Charles and De Ridder. The Louisiana & Pacific pays the Lake Charles & Northern 25 cents per train-mile for the trains that it operates over that track, and also bears a certain proportion of the station expenses; the payments aggregated for the fiscal year 1910 approximately \$7,000. The two companies, as the record indicates, enjoy equal rights over the track, and in view of the price received by the R. A. Long interests from the Southern Pacific the trackage arrangement is obviously a most advantageous one.

39 The Louisiana & Pacific is a peculiar property. There are five separate branches or tracks not directly connected with each other, but all joining at different points the track conveyed to the Lake Charles & Northern. The five tracks may be described as follows: (1) A track connecting with the Lake Charles & Northern at De Ridder Junction, and extending eight miles to Bundicks, which is apparently a logging camp with a company store. The mill of the Hudson River Lumber Company, in whose interest this track is operated, is at De Ridder, being within a few hundred feet of the rails of the trunk line. (2) At Lilly Junction, a second section of the track of the tap line connects with the Lake Charles & Northern, extending therefrom about seven and one-half miles to a point in the woods known as Walla, where the King-Ryder Lumber Company has a commissary, and there is a small independent yellow pine mill, owned by the Bundick Creek Lumber Company. The mill of the King-Ryder Company is at Bonami, on the track jointly operated by the tap line and the Lake Charles & Northern. This is a town of 2,000 people, but apparently has no other industries. (3) Two miles of incorporated track of the Louisiana & Pacific connect with the Lake Charles & Northern track at Longville, a town of 2,000 population, where the Longville Lumber Company has its mill and a store. There are also several independent stores. (4) There are nine miles of track connecting with the Lake Charles

& Northern at Fayette, and extending to Camp Curtis, a settlement of 200 people, where the Calcasieu Long Leaf Lumber Company has a company store, its mill being at Lake Charles. (5) A track one mile in length described on the record as connecting with the Lake Charles & Northern at Bridge Junction and running to Lake Charles station. Through its operating rights over the Lake Charles & Northern, the tap line connects with the Kansas City Southern and the Santa Fe at De Ridder, with the Frisco at Fulton, and with the Southern Pacific, Iron Mountain and Kansas City Southern at Lake Charles. The equipment of the Louisiana & Pacific consists of 22 locomotives, 6 cabooses, 41 freight cars and 270 logging cars. It also owns a private car which is used in traveling around the country by its officers, who hold free transportation, and who are connected with the lumber companies. The lumber companies have many miles of unincorporated logging track connecting with the several sections of the Louisiana & Pacific at various points. There are a number of other towns or settlements named on the record, which it is unnecessary to mention; and there is a second small independent mill, owned by the Brown Lumber Company and located at Bannister, on the Lake Charles & Northern.

The logs are loaded by the lumber companies and switched by them over the logging spurs to the point of connection with the incorporated line. The cars are then hauled by the tap line to the mill, a distance on the average of about thirty miles, as is stated of record. No charge is made by the tap line against the lumber companies for the log movement. The tap line switches the carloads of lumber a distance of three-fourths of a mile from the mill at Lake Charles to the Southern Pacific, or a distance of a few hundred feet from the De Ridder mill to the trunk lines. It moves lumber for a distance of eighteen miles from the Lake Charles Mill to the Frisco; the movement from the mill at Bonami to the Southern Pacific at Lake Charles is forty miles; and the lumber movement from the Longville mill to the Southern Pacific at Lake Charles is twenty-four miles. The average haul of the tap line on lumber movements of the controlling companies is said to be nearly twenty miles. The steel for these tracks is apparently supplied by the tap line without charge. There are written agreements under which 50 per cent of the lumber tonnage must be routed over the Frisco and 40 per cent by the Southern Pacific; but the record indicates that these obligations are not rigidly adhered to and more than 10 per cent is delivered to the other trunk lines. The total movement of lumber for the fiscal year 1910 was 243,122 tons, and the merchandise and other commodities aggregated 8,819 tons. As much as 98 per cent of the entire tonnage was supplied by the controlling interests. A few passengers are carried, the receipts from that source for the year 1910 being \$473.77. A logging train runs daily on each of the branches, and there is one 'mixed train,' loaded chiefly with logs and lumber, moving over the track between Lake Charles and De Ridder.

The allowances paid by the trunk lines range from $1\frac{1}{2}$ to $5\frac{1}{2}$

cents per 100 pounds out of their earnings under the group lumber rate.

The annual report to the Commission for the year ending June 30, 1910, shows an operating revenue of \$220,985.94, with operating expenses amounting to \$145,433.69. There was an accumulated surplus on that date of \$73,581.07.

In this case we have another instance of a service performed for a lumber company by a tap line claiming to be a common carrier for which no charge is made, namely, the service of hauling the logs to the several mills. For the switching service of a few hundred feet from the mill at De Ridder to the trunk lines, and three-fourths of a mile from the mill at Lake Charles to the Southern Pacific, allowances are made out of the rate of from $1\frac{1}{2}$ to $5\frac{1}{2}$ cents. There are other important facts of record with respect to this tap line which we have not thought necessary to include in this statement. We regard the whole arrangement as indefensible and unlawful, and see no grounds upon which any allowance may lawfully be made. * * *

Irregular Practices of Tap Lines.

It appears from the foregoing statements respecting the several tap lines described in this supplemental report, as well as from the statement of those described in the original report, that there
42 are many respects in which the law and the rules and regulations of the Commission are not observed by them. Although claiming to be common carriers, some of them did not file annual reports with the Commission until recently. The reports of others are so far from being complete that they cannot be said to comply with the requirements of the Act. Many of them, also, do not publish any local rates to apply on traffic received from or delivered to their trunk line connections. Many of them carry passengers and less-than-carload shipments without charge at all; others make a charge without the authority of the published tariffs. We have already referred to the use made by controlling lumber companies of their tap lines under formal and informal agreements for trackage rights with and without charge, and all without any tariff authority. The Hours of Service Law, the Safety Appliance Act and other Acts imposing certain requirements on common carriers engaged in interstate commerce are not fully complied with in many cases, and in others are wholly disregarded. There is a lack of attention also to our rules and regulations respecting the filing of tariffs and the keeping of accounts. In some cases, our examiners have been refused full access to the books of tap lines. With respect to all these matters, the law makes no exception in favor of any railroads that purport to be common carriers. While our conclusions, in no instance, have been based on the failure of a tap line to comply with our rules and regulations, we must give warning to all such companies that purport to hold themselves out as common carriers that such irregularities must promptly be corrected.

General Comments.

The rates of the trunk lines for the movements of logs in this territory are penalty rates; that is to say, the inbound rate to the mill is higher than it should be and is reduced to a net rate, 43 provided the lumber goes out over the rails of the same carrier. Such rate adjustments are adverted to and criticised in *Red River Cotton Oil Co. v. T. & P. Ry. Co.*, 23 I. C. C. 437. So far as we can see from a careful examination of the record, there is no real necessity for any such rate adjustment in this territory. The penalty rates should be withdrawn, and in their place the carriers ought to fix reasonable flat rates for the inbound log movement.

Orders will be entered as soon as possible to give effect to the views expressed in the original and supplemental reports herein. Tariffs fixing rates and switching charges in accordance with our conclusions may be filed on three days' notice. The carriers will also be expected to submit for the approval of the Commission the basis of allowances to lumber companies, under Section 15, in the cases where in the original and supplemental reports we have said that such allowances might properly be paid. When approved by the Commission such allowances must be published.

In the majority of cases the tap lines have made no joint class and commodity rates with their trunk line connections. In other cases joint rates have been established, at least to some destinations. Where joint through class and commodity rates are in effect or hereafter made effective to or from points on tap lines, the trunk lines and the tap lines will be expected to submit to the Commission for approval the basis of their divisions. It is expected also that they will submit for our approval reasonable and non-discriminatory rates on forest product when shipped from tap line points other than the mills of the controlling companies, and will also submit the bases of the divisions thereof.

When all these matters shall have been adjusted in compliance with the views of the Commission, an order will be entered authorizing trunk lines to make settlements on these bases with 44 respect to all traffic moving after May 1, either under Section 15 or as allowances out of the rate, as provided herein in the respective cases.

Orders in other cases in which these or other tap lines in this territory are parties defendant may be called to our attention in case they are in conflict herewith.

By the Commission.

[SEAL.]

JOHN H. MARBLE, *Secretary.*"

Your petitioners further state that the Opinion No. 1898, reported in the 23d Interstate Commerce Commission Reports, at page 549, et seq., purports to have been decided and is dated on May 14, 1912, but your petitioners allege that said opinion was not made public until the 1st day of June, 1912.

Petitioners further state that on the 11th day of June, 1912, the Interstate Commerce Commission made and entered of record, or at

least made public on that day, an order in words and figures as follows, to-wit:

Order.

"At a General Session of the Interstate Commerce Commission, Held at Its Office in Washington, D. C., on the 14th Day of May, A. D. 1912.

Investigation and Suspension Docket No. 11.

In the Matter of the INVESTIGATION AND SUSPENSION OF SCHEDULES Canceling Through Rates with Certain Tap-Line Connections and Certain Other Cases Consolidated Herewith.

It Appearing, That a full investigation of the matters and things herein involved has been had, and the Commission, on April 23, 1912, having made and filed a report containing its findings of fact and conclusions thereon, and having also on the date hereof
45 made and filed a supplemental report containing its further findings of fact and conclusions thereon, which said reports are hereby referred to and made a part hereof;

It Further Appearing, That the Commission has found that in the case of the following named parties to the record, and each of them, namely:

Malvern & Freeo Valley Railway Company;
Wilmar & Saline Valley Railroad Company;
Arkansas & Gulf Railroad Company;
Little Rock, Maumelle & Western Railroad Company;
Beirne & Clear Lake Railroad;
Mississippi, Arkansas & Western Railway Company;
Bearden & Ouachita River Railroad Company;
Arkansas Eastern Railroad Company;
Blytheville, Burdette & Mississippi River Railway Company;
Brookings & Peach Orchard Railroad Company;
Crossett Railway Company;
Fordyce & Princeton Railroad Company;
Homan & Southeastern Railway Company;
Little Rock, Sheridan & Saline River Railway Company;
L'Anguille River Railway Company;
Ouachita Valley Railway Company;
Griffin, Magnolia & Western Railway Company;
Saline Bayou Railway Company;
Enterprise Railway Company;
Natchez, Ball & Shreveport Railway Company;
Black Bayou Railroad Company;
The Bodcaw Valley Railway Company;
Mill Creek & Little River Railway & Navigation Company;
Red River & Rocky Mount Railway Company;
Woodworth & Louisiana Central Railway Company;
46 Freeo Valley Railroad Company;
Natchez, Urania & Ruston Railway Company;

29

Bernice & Northwestern Railway Company;
 Dorcheat Valley Railroad Company;
 Manghan & Northeastern Railway Company;
 Galveston, Beaumont & Northeastern Railway Company;
 Peach River & Gulf Railway Company;
 Riverside & Gulf Railway Company;
 Jefferson & Northwestern Railway Company;
 Beaumont & Saratoga Transportation Company;
 Angeline & Neches River Railroad Company;
 Missouri & Louisiana Railroad Company;
 Saginaw & Ouachita River Railroad Company;
 Warren, Johnsville & Saline River Railroad Company;
 Blytheville, Leachville & Arkansas Southern Railroad Company;
 The Caddo & Choctaw Railroad Company;
 Manila & Southwestern Railway Company;
 Louisiana & Pine Bluff Railway Company;
 Mansfield Railway & Transportation Company;
 Louisiana & Pacific Railway Company;
 Roosevelt & Western Railroad Company;
 Tioga & Southeastern Railway Company;
 Louisiana Central Railroad Company;
 Monroe & Southwestern Railway Company;
 Victoria, Fisher & Western Railroad Company;
 Ouachita & Northwestern Railroad Company;
 Lake Charles Railway & Navigation Company;
 Louisiana Railway Company;
 Zwolle & Eastern Railway Company;
 Sabine & Northern Railroad Company;

Gidean & North Island Railroad Company;

47 Poplar Bluff & Dan River Railway Company;

the service performed for the respective proprietary lumber companies in moving the logs from their respective forests to their respective mills and in moving the product from the mills to the trunk lines is not a service of transportation by a common carrier railroad and that any allowances or divisions out of the rate on account thereof are unlawful:

It Further Appearing, That the following parties to the record, namely:

Little Rock, Maumelle & Western Railroad Company;
 Bearden & Ouachita River Railroad Company;
 Arkansas Eastern Railroad Company;
 Crossett Railway Company;
 Fordyce & Princeton Railroad Company;
 Ouachita Valley Railway Company;
 Freeo Valley Railroad Company;
 Dorcheat Valley Railroad Company;
 Galveston, Beaumont & Northeastern Railway Company;
 Peach River & Gulf Railway Company;
 Riverside & Gulf Railway Company;
 Angelina & Neches River Railroad Company;
 Saginaw & Ouachita River Railroad Company;

Blytheville, Leachville & Arkansas Southern Railroad Company;
The Caddo & Choctaw Railroad Company;
Manila & Southwestern Railway Company;
Louisiana & Pine Bluff Railway Company;
Mansfield Railway & Transportation Company;
Lake Charles Railway & Navigation Company;
Louisiana Railway Company;
Zwolle & Eastern Railway Company;

48 Gideon & North Island Railroad Company; have heretofore filed with the Commission petitions asking for the establishment or re-establishment of through routes and joint rates on forest products to interstate destinations, which said petitions or complaints are filed on or consolidated with the record herein and on which a full hearing has been had:

It Is Ordered, That said petitions, so far as they relate to rates on the products of the mills of the proprietary companies, be, and for the reasons set forth in said reports they are hereby, dismissed.

It Is Further Ordered, That the defendants the Chicago, Rock Island & Pacific Railway Company; St. Louis & San Francisco Railroad Company; New Orleans, Texas & Mexico Railroad Company; Beaumont, Sour Lake & Western Railway Company; St. Louis, Iron Mountain & Southern Railway Company; The Texas & Pacific Railway Company; International & Great Northern Railway Company; The Missouri, Kansas & Texas Railway Company of Texas; St. Louis Southwestern Railway Company; St. Louis; Southwestern Railway Company of Texas; The Paragould Southeastern Railway Company; Eastern Texas Railroad Company; The Kansas City Southern Railway Company; Texarkana & Fort Smith Railway Company; The Houston, East & West Texas Railway Company; Texas & New Orleans Railroad Company; Louisiana Western Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; Lake Charles & Northern Railroad Company; Vicksburg, Shreveport & Pacific Railway Company; Louisiana & Arkansas Railway Company; Louisiana Railway & Navigation Company; Gulf, Colorado & Santa Fe Railway Company; The Texas & Gulf Railway Company; Missouri & North Arkansas Railroad Company; Illinois Central Railroad Company; Southern Railway Company; Northern Alabama Railway Company; New Orleans Great Northern Railroad Company, and Mobile & Ohio Railroad Company be, and they are
49 hereby, authorized, on not less than three days' notice, to reopen through routes and publish joint rates with the following parties to the record, and each of them, on the products of the mills of their respective proprietary companies:

Saline River Railway Company;
Warren & Ouachita Valley Railway Company;
El Dorado & Western Railway Company;
Thornton & Alexandria Railway Company;
Doniphan, Kensett & Searcy Railway;
Fourche River Valley & Indian Territory Railway Company;
Prescott & Northwestern Railroad Company;
Memphis, Dallas & Gulf Railroad Company;

Crittenden Railroad Company;
 De Queen & Eastern Railroad Company;
 Central Railway Company of Arkansas;
 Gulf & Sabine River Railroad Company;
 The Sibley, Lake Bisteneau & Southern Railway Company;
 North Louisiana & Gulf Railroad Company;
 Arkansas Southeastern Railroad Company;
 Red River & Gulf Railroad Company;
 Tremont & Gulf Railway Company;
 The Nacogdoches & Southeastern Railroad Company;
 Texas Southeastern Railroad Company;
 Timpson & Henderson Railway Company;
 Shreveport, Houston & Gulf Railroad Company;
 Groveton, Lufkin & Northern Railway Company;
 Moscow, Camden & San Augustine Railway Company;
 Trinity Valley & Northern Railway Company;
 Trinity Valley Southern Railroad Company;
 Caro Northern Railway Company;
 Butler County Railroad Company;
 Deering Southwestern Railway;

50 Mississippi Valley Railway Company;
 Paragould & Memphis Railway Company;
 Salem, Winona & Southern Railroad Company;
 Fernwood & Gulf Railroad Company;
 New Orleans, Natalbany & Natchez Railway Company;
 Albany Central Railroad Company;
 Washington & Choctaw Railway Company;

Provided, The allowances or divisions out of such joint rates to be paid on the products of the mills of the said proprietary companies shall not exceed the divisions or allowances specified in the aforesaid supplemental report of the Commission.

It Is Further Ordered, That, for the reasons specified in the said supplemental report, no allowances or divisions shall be made on the products of the mills of the lumber companies owning or controlling the following companies party to the record:

Gould Southwestern Railway Company;
 Kentwood & Eastern Railway Company;
 Kentwood, Greensburg & Southwestern Railroad Company;
 Liberty-White Railroad Company;
 Natchez, Columbia & Mobile Railroad Company;

And It Is Further Ordered, That the joint rates hereinabove authorized may be published on three days' notice to the public and to the Commission, the tariffs to refer to this order by date and number, and on like notice any of the said defendants or parties to the record may republish rates on class and commodity traffic and on products of mills other than those of the respective proprietary lumber companies.

By the Commission.

[SEAL.]

JOHN H. MARBLE, *Secretary.*"

11. Your petitioners, believing the reports and decisions
 51 and orders of the Interstate Commerce Commission herein-
 before set out under paragraph 10 hereof to be void and un-
 lawful, filed in this Court, on or about the 21st day of June, 1912,
 their petition asking this Court to suspend and annul said orders.
 Said suit is numbered 71 in this Court.

Thereupon, upon the motion of the United States and of the In-
 terstate Commerce Commission, this Court, basing its decision upon
 the case of Proctor & Gamble v. The United States, on the 29th day
 of June, 1912, dismissed the petition of these petitioners for want
 of jurisdiction in this Court; and thereupon, to meet the decision of
 this court, these petitioners and other railroad companies, affected
 by the report, decision and order of the Interstate Commerce Com-
 mission, filed an application before the Interstate Commerce Com-
 mission for a modification of the order hereinabove set out, which
 application is in form and substance as follows, to-wit:

Before the Interstate Commerce Commission.

I. & S. Docket No. 11.

Petition.

Comes now the undersigned, attorney for the various tap line
 railroads whose status was determined by the Commission in the
 above entitled investigation, and respectfully requests that the Com-
 mission will, at the earliest possible date, issue an affirmative order
 substantially in form as follows:

"It is ordered that Malvern & Freeo Valley Railway Company;
 Wilmar & Saline Valley Railroad Company; Arkansas & Gulf Rail-
 road Company; Little Rock, Maumelle & Western Railroad Com-
 pany; Beirne & Clear Lake Railroad Company; Mississippi,
 52 Arkansas & Western Railway Company; Bearden & Ouachita
 River Railroad Company; Arkansas Eastern Railroad Com-
 pany; Blytheville, Burdette & Mississippi River Railway Company;
 Brookings & Peach Orchard Railroad Company; Crossett Railway
 Company; Fordyce & Princeton Railroad Company; Homan &
 Southeastern Railway Company; Little Rock, Sheridan & Saline
 River Railway Company; L'Anguille River Railway Company;
 Ouachita Valley Railway Company; Griffin, Magnolia & Western
 Railway Company; Saline Bayou Railway Company; Enterprise
 Railway Company; Natchez, Ball & Shreveport Railway Company;
 Black Bayou Railroad Company; The Bodeaw Valley Railway Com-
 pany; Mill Creek & Little River Railway & Navigation Company;
 Red River & Rocky Mountain Railroad Company; Woodworth &
 Louisiana Central Railway Company; Freeo Valley Railroad Com-
 pany; Natchez, Urania & Ruston Railway Company; Bernice &
 Northwestern Railway Company; Dorcheat Valley Railroad Com-
 pany; Manghan & Northeastern Railway Company; Galveston,
 Beaumont & Northeastern Railway Company; Peach River & Gulf
 Railway Company; Riverside & Gulf Railway Company; Jefferson
 & Northeastern Railway Company; Beaumont & Saratoga Trans-

portation Company; Angelina & Neches River Railroad Company; Missouri & Louisiana Railroad Company; Saginaw & Ouachita River Railroad Company; Warren, Johnsville & Saline River Railroad Company; Blytheville, Leachville & Arkansas Southern Railroad Company; The Caddo & Choctaw Railroad Company; Manila & Southwestern Railway Company; Louisiana & Pine Bluff Railway Company; Mansfield Railway & Transportation Company; Louisiana & Pacific Railway Company; Roosevelt & Western Railroad Company; Tioga & Southeastern Railway Company; Louisiana Central Railroad Company; Monroe & Southwestern Railway Company; Victoria, Fisher & Western Railroad Company;

53 Ouachita & Northwestern Railroad Company; Lake Charles Railway & Navigation Company; Louisiana Railway Company; Zwolle & Eastern Railway Company; Sabine & Northern Railroad Company; Gideon & North Island Railroad Company, and Poplar Bluff & Dan River Railway Company be and each of them are required, on or before September 15, 1912, to cease and desist, and for a period of two years thereafter to abstain from maintaining joint interstate rates for the movement of logs to the mills of the respective proprietary lumber companies in Opinions Nos. 1853 and 1898 (which opinions are made part hereof), and for the movement of the products of such logs and mills to interstate destinations.

It is further ordered that the defendants named, the Chicago, Rock Island & Pacific Railway Company; St. Louis & San Francisco Railroad Company; New Orleans, Texas & Mexico Railroad Company; Beaumont, Sour Lake & Western Railway Company; St. Louis, Iron Mountain & Southern Railway Company; The Texas & Pacific Railway Company; International & Great Northern Railway Company; The Missouri, Kansas & Texas Railway Company of Texas; St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; The Paragould Southeastern Railway Company; Eastern Texas Railroad Company; The Kansas City Southern Railway Company; Texarkana & Fort Smith Railway Company; The Houston East & West Texas Railway Company; Texas & New Orleans Railroad Company; Louisiana Western Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; Lake Charles & Northern Railroad Company; Vicksburg, Shreveport & Pacific Railway Company; Louisiana & Arkansas Railway Company; Louisiana Railway & Navigation Company; Gulf, Colorado & Santa Fe Railway Company; The Texas & Gulf Railway Company; Missouri & North Arkansas Railroad Company;

Illinois Central Railroad Company; Southern Railway Company;

54 Northern Alabama Railway Company; New Orleans Great Northern Railroad Company and Mobile & Ohio Railroad Company; Saline River Railway Company; Warren & Ouachita Valley Railway Company; El Dorado & Wessen Railway Company; Thornton & Alexandria Railway Company; Doniphan, Kensett & Searcy Railway; Fourche River Valley & Indian Territory Railway Company; Prescott & Northwestern Railway Company; Memphis, Dallas & Gulf Railroad Company; Crittenden Railroad Company; De Queen & Eastern Railroad Company; Central Railway Company of Arkansas; Gulf & Sabine River Railroad Company; The Sibley,

Lake Bisteneau & Southern Railway Company; North Louisiana & Gulf Railroad Company; Arkansas Southeastern Railroad Company; Red River & Gulf Railroad Company; Tremont & Gulf Railway Company; The Nacogdoches & Southeastern Railroad Company; Texas Southeastern Railroad Company; Timpson & Henderson Railway Company; Shreveport, Houston & Gulf Railroad Company; Groveton, Lufkin & Northern Railway Company; Moscow, Camden & San Augustine Railway Company; Trinity Valley & Northern Railway Company; Trinity Valley Southern Railroad Company; Caro Northern Railway Company; Butler County Railroad Company; Deering Southwestern Railway; Mississippi Valley Railway Company; Paragould & Memphis Railway Company; Salem, Winona & Southern Railroad Company; Fernwood & Gulf Railroad Company; New Orleans, Natalbany & Natchez Railway Company; Alabama Central Railroad Company, and Washington & Choctaw Railway Company be and they are hereby authorized and required on or before September 15, 1912, to reopen through routes and publish joint rates upon lumber destined to interstate points, provided the maximum of such joint rates shall not exceed those in effect April 30, 1912.

It is further ordered that the divisions or proportions of the joint rates accruing to the Saline River Railway Company; Warren & Ouachita Valley Railway Company; El Dorado & Wesson Railway Company, Thornton & Alexandria Railway Company; Doniphan, Kensett & Searcy Railway Company; Forche River Valley & Indian Territory Railway Company; Prescott & Northwestern Railway Company; Memphis, Dallas & Gulf Railroad Company; Crittenden Railroad Company; De Queen & Eastern Railroad Company; Central Railway Company of Arkansas; Gulf & Sabine River Railroad Company; The Sibley, Lake Bisteneau & Southern Railway Company; North Louisiana & Gulf Railroad Company; Arkansas Southeastern Railroad Company; Red River & Gulf Railroad Company; Tremont & Gulf Railway Company; The Nacogdoches & Southeastern Railroad Company; Texas Southeastern Railroad Company; Timpson & Henderson Railway Company; Shreveport, Houston & Gulf Railroad Company; Groveton, Lufkin & Northern Railway Company; Moscow, Camden & San Augustine Railway Company; Trinity Valley & Northern Railway Company; Trinity Valley Southern Railroad Company; Caro Northern Railway Company; Butler County Railroad Company; Deering Southwestern Railway Company; Mississippi Valley Railway Company; Paragould & Memphis Railway Company; Salem, Winona & Southern Railroad Company; Fernwood & Gulf Railroad Company; New Orleans, Natalbany & Natchez Railway Company; Alabama Central Railroad Company, and Washington & Choctaw Railway Company upon the products of the mills of the proprietary companies named in Opinions Nos. 1853 and 1898, located on said lines, shall not exceed the divisions, proportions or allowances specified in said opinions."

The basis for the aforesaid request is contained in the following statement of facts and circumstances arising subsequent to the entry of the order of May 14, 1912:

56 (1) The order of May 14, 1912, entered in such proceeding is not such an order as is required by Sections 14 and 15 of the Act to Regulate Commerce as amended June 29, 1906.

(2) Subsequent to the entry of said order of May 14, 1912, the Supreme Court of the United States announced its opinion in the Proctor & Gamble case, in which it was held that the Commerce Court had no jurisdiction of suits brought to enjoin so-called negative orders of the Commission.

(3) There was much difference of opinion as to whether said order of May 14, 1912, was or was not an affirmative order within the definition of the Supreme Court in the said Proctor & Gamble case. Application was made to the Commission for modification of said order substantially in form with that set forth above, which said application was denied.

(4) Three test suits were filed in the Commerce Court to enjoin such order of May 14, 1912, and the Commerce Court, upon motion of the Commission and the Department of Justice, dismissed the same on the authority of the Proctor & Gamble decision.

(5) The time limit within which appeals from such decree of dismissal must be made will expire August 18, 1912.

(6) The trunk line railroads connecting with the so-called tap lines have accepted the Commission's requirement of May 14, 1912, as an affirmative order, and the said tap lines are without any recourse whereby to protect their lawful rights.

(7) The modification above requested will not change in any wise the present status of any of the tap line carriers so far as joint rates are concerned; the only effect of the order will be to confer jurisdiction upon the court to determine the lawful rights of the said tap lines and their shippers, and, so far as the law may require or permit, protect the tap lines and their shippers from unlawful acts of the trunk line connections.

57 (8) In the case of fifty-seven (57) lines in which the Commission held that the transportation of logs from the forest to the mills and the product from the mills to the trunk lines was not a service of transportation when performed for the proprietary lumber companies, the trunk lines have refused to establish joint rates upon other forest products, notwithstanding the Commission's suggestion so to do, the position taken by the trunk lines being that if the tap lines are not common carriers of logs and lumber for the proprietary lumber companies such tap lines are not common carriers of any logs and lumber.

(9) Members of the Commission have stated since the entry of this order that the questions of law involved in the tap line cases are important and should be determined at an early date. These questions can be determined at the present time by the entry of the form of order requested herein.

(10) Since May 14, 1912, the Commission has established joint rates upon lumber transported by short line railroad companies for proprietary lumber companies, and has entered an affirmative order requiring the publication of such joint rates. We are asking in the case of the Saline River Railway Company and other carriers recog-

nized by this Commission as properly entitled to participate in joint rates that the same sort of an order be entered as was made by the Commission in the McCloud River Lumber case.

In the Peavey Elevator cases the Commission found that payment out of the joint rate to the Peavey Elevator Company for the elevation of the grain of that company was a rebate and discrimination; the finding in the tap line cases, so far as the transportation of lumber and logs for the proprietary lumber companies upon the fifty-seven (57) lines held not to be carriers of logs or lumber for the proprietary lumber companies, is that any allowance out of the joint rate is a rebate and discrimination. In that case an order
58 to cease and desist was made. That order was similar in all respects to the order requested in this case as to the fifty-seven first named tap lines.

We therefore respectfully petition this Honorable Commission to modify its order in form substantially as above requested.

L. M. WALTER,
Attorney for Petitioners.

And thereupon, on the 30th day of October, 1912, the Interstate Commerce Commission made and entered of record an amended order in form and substance as follows, to-wit:

Interstate Commerce Commission.

Investigation and Suspension Docket No. 11.

The Tap-Line Case.

Amended Order.

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 30th day of October, A. D. 1912.

Investigation and Suspension Docket No. 11.

In the Matter of the Investigation and Suspension of Schedules Canceling Through Rates with Certain Tap-Line Connections; and Certain Other Cases Consolidated Herewith.

This matter coming on again upon a motion for an amendment of the order heretofore entered by the Commission on May 14, 1912, and the Commission being fully advised.

It Is Ordered, That the said order be, and it is hereby, modified to read as follows:

1. It Appearing, That a full investigation of the matters and things herein involved has been had, and the Commission, on April 23, 1912, having made and filed a report containing its findings of fact and conclusions thereon, and having also on the said
59 14th day of May, 1912, made and filed a supplemental report containing its further findings of fact and conclusions

thereon, which said reports are hereby referred to and made a part hereof;

2. It Further Appearing, That the Commission upon the record finds in the case of the following named parties to the record, and each of them, namely:

- Malvern & Freeo Valley Railway Company;
- Wilmar & Saline Valley Railroad Company;
- Arkansas & Gulf Railroad Company;
- Little Rock, Maumelle & Western Railroad Company;
- Beirne & Clear Lake Railroad;
- Mississippi, Arkansas & Western Railway Company;
- Bearden & Ouachita River Railroad Company;
- Arkansas Eastern Railroad Company;
- Blytheville, Burdette & Mississippi River Railway Company;
- Brookings & Peach Orchard Railroad Company;
- Crossett Railway Company;
- Fordyce & Princeton Railroad Company;
- Homan & Southeastern Railway Company;
- Little Rock, Sheridan & Saline River Railway Company;
- L'Anguille River Railway Company;
- Ouachita Valley Railway Company;
- Griffin, Magnolia & Western Railway Company;
- Saline Bayou Railway Company;
- Enterprise Railway Company;
- Natchez, Ball & Shreveport Railway Company;
- Black Bayou Railroad Company;
- The Bodcaw Valley Railway Company;
- Mill Creek & Little River Railway & Navigation Company;
- Red River & Rocky Mount Railway Company;
- 60 Woodworth & Louisiana Central Railway Company;
- Freeo Valley Railroad Company;
- Natchez, Urania & Ruston Railway Company;
- Bernice & Northwestern Railway Company;
- Dorcheat Valley Railroad Company;
- Manghan & Northeastern Railway Company;
- Galveston, Beaumont & Northeastern Railway Company;
- Peach River & Gulf Railway Company;
- Riverside & Gulf Railway Company;
- Jefferson & Northwestern Railway Company;
- Beaumont & Saratoga Transportation Company;
- Angelina & Neches River Railroad Company;
- Missouri & Louisiana Railroad Company;
- Saginaw & Ouachita River Railroad Company;
- Warren, Johnsville & Saline River Railroad Company;
- Blytheville, Leachville & Arkansas Southern Railroad Company;
- The Caddo & Choctaw Railroad Company;
- Manila & Southwestern Railway Company;
- Louisiana & Pine Bluff Railway Company;
- Mansfield Railway & Transportation Company;
- Louisiana & Pacific Railway Company;
- Roosevelt & Western Railroad Company;
- Tioga & Southeastern Railway Company;

- Louisiana Central Railroad Company;
 Monroe & Southwestern Railway Company;
 Victoria, Fisher & Western Railroad Company;
 Ouachita & Northwestern Railroad Company;
 Lake Charles Railway & Navigation Company;
 Louisiana Railway Company;
 61 Zwolle & Eastern Railway Company;
 Sabine & Northern Railroad Company;
 Gideon & North Island Railroad Company;
 Poplar Bluff & Dan River Railway Company;

that the tracks and equipment with respect to the industry of the several proprietary companies are plant facilities, and that the service performed therewith for the respective proprietary lumber companies in moving logs to their respective mills and performed therewith in moving the products of the mills to the trunk lines is not a service of transportation by a common carrier railroad, but is a plant service by a plant facility; and that any allowances or divisions out of the rate on account thereof are unlawful and result in undue and unreasonable preferences and unjust discriminations, as found in the said reports;

3. It Is Ordered, That the principal defendants, The Chicago, Rock Island & Pacific Railway Company; St. Louis & San Francisco Railroad Company; New Orleans, Texas & Mexico Railroad Company; Beaumont, Sour Lake & Western Railway Company; St. Louis, Iron Mountain & Southern Railway Company; The Texas & Pacific Railway Company; International & Great Northern Railway Company; The Missouri, Kansas & Texas Railway Company of Texas; St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas; The Paragould Southeastern Railway Company; Eastern Texas Railroad Company; The Kansas City Southern Railway Company; Texarkana & Fort Smith Railway Company; The Houston, East & West Texas Railway Company; Texas & New Orleans Railroad Company; Louisiana Western Railroad Company; Morgan's Louisiana & Texas Railroad & Steamship Company; Lake Charles & Northern Railroad Company; Vicksburg, Shreveport & Pacific Railway Company; Louisiana & Arkansas Railway Company; Louisiana Railway & Navigation Company; Gulf, Colorado & Santa Fe Railway Company; The Texas & Gulf Railway Company; Missouri & North Arkansas Railroad Company; Illinois Central Railroad Company; Southern Railway Company; Northern Alabama Railway Company; New Orleans Great Northern Railroad Company, and Mobile & Ohio Railroad Company be, and they are hereby, notified and required to cease and desist, and for a period of two years hereafter, or until otherwise ordered, to abstain from making any such allowances to any of the above named parties to the record in respect of any such above described service.

4. It Further Appearing, That the following parties to the record, namely:

Little Rock, Maumelle & Western Railroad Company;
 Bearden & Ouachita River Railroad Company;
 Arkansas Eastern Railroad Company;
 Crossett Railway Company;
 Fordyce & Princeton Railroad Company;
 Ouachita Valley Railway Company;
 Freeo Valley Railroad Company;
 Doreheat Valley Railroad Company;
 Galveston, Beaumont & Northeastern Railway Company;
 Peach River & Gulf Railway Company;
 Riverside & Gulf Railway Company;
 Angelina & Neches River Railroad Company;
 Saginaw & Ouachita River Railroad Company;
 Blytheville, Leachville & Arkansas Southern Railroad Company;
 The Caddo & Choctaw Railroad Company;
 Manila & Southwestern Railway Company;
 Louisiana & Pine Bluff Railway Company;
 Mansfield Railway & Transportation Company;
 Lake Charles Railway & Navigation Company;
 Louisiana Railway Company;
 63 Zwolle & Eastern Railway Company;
 Gideon & North Island Railroad Company;

have heretofore filed with the Commission their several petitions asking for the establishment or re-establishment of through routes and joint rates to interstate destinations, which said petitions or complaints are filed on or consolidated with the record herein and on which a full hearing has been had:

5. It Is Ordered, That said petitions, so far as they relate to rates on the products of the mills of the respective proprietary companies, be, and for the reasons set forth in said reports they are hereby, dismissed.

6. It Further Appearing, That the following parties to the record, namely:

Warren & Ouachita Valley Railway Company;
 El Dorado & Wesson Railway Company;
 Thornton & Alexandria Railway Company;
 Fourche River Valley & Indian Territory Railway Company;
 Prescott & Northwestern Railroad Company;
 Crittenden Railroad Company;
 North Louisiana & Gulf Railroad Company;
 Arkansas Southeastern Railroad Company;
 Red River & Gulf Railroad Company;
 Tremont & Gulf Railway Company;
 The Nacogdoches & Southeastern Railroad Company;
 Texas Southeastern Railroad Company;
 Shreveport, Houston & Gulf Railroad Company;
 Groveton, Lufkin & Northern Railway Company;
 Trinity Valley & Northern Railway Company;
 Trinity Valley Southern Railroad Company;
 Caro Northern Railway Company;

Butler County Railroad Company;
 Deering Southwestern Railway;
 Mississippi Valley Railway Company;
 Paragould & Memphis Railway Company;

64 have heretofore filed with the Commission their several petitions asking for the establishment or re-establishment of through routes and joint rates to interstate destinations, which said petitions or complaints are filed on or consolidated with the record herein, and on which a full hearing has been had:

7. It Is Ordered, That the said principal defendants above named be, and they are hereby, required, on or before January 1, 1913, to re-establish, and for a period of two years to maintain with each of the said parties to the record last above named, the through interstate routes and joint rates in effect, in accordance with their respective tariffs filed with this Commission on April 30, 1912;

8. Provided, That the rates on yellow pine lumber and articles taking the same rates from points on the lines of the last above named parties to the record shall not exceed the current rates in effect from the junction points; and

9. Provided further, That the allowances or divisions out of such joint rates to be paid by said principal defendants, respectively, to the said last named parties to the record on the products of the mills of the said respective proprietary companies named in said report shall not exceed the divisions or allowances specified in the aforesaid supplemental report of the Commission, which are hereby fixed as maximum divisions or allowances thereon, until further order, the Commission finding upon the record that any allowances or divisions in excess thereof result in undue preferences and unjust discriminations and are unlawful.

10. It Is Further Ordered, That in the case of the following parties to the record, by which petitions for the establishment or re-establishment of through routes and joint rates have not been filed, namely:

Saline River Railway Company;
 Doniphan, Kensett & Searcy Railway;
 Memphis, Dallas & Gulf Railroad Company;
 65 De Queen & Eastern Railroad Company;
 Central Railway Company of Arkansas;
 Gulf & Sabine River Railroad Company;
 The Sibley, Lake Bisteneau and Southern Railway Company;
 Timpson & Henderson Railway Company;
 Moscow, Camden & San Augustine Railway Company;
 Salem, Winona & Southern Railroad Company;
 Fernwood & Gulf Railroad Company;
 New Orleans, Natalbany & Natchez Railway Company;
 Alabama Central Railroad Company;
 Washington & Choctaw Railway Company;

the said principal defendants be, and *there* are hereby, authorized to re-establish the through routes and joint rates in effect in accordance

with their respective tariffs filed with this Commission on April 30, 1912, subject to the terms and conditions prescribed in paragraphs 8 and 9 hereof; and Provided, further, that upon the failure of the principal defendants to re-establish the through routes and joint rates in effect on April 30, 1912, with the last above named parties to the record on or before January 1, 1913, the Commission will upon the filing herein of appropriate petitions therefor enter an order upon the record herein requiring the re-establishment of such through routes and joint rates.

11. It Is Further Ordered, That in case of the failure of the principal defendants to re-establish, on or before January 1, 1913, the through routes and joint rates in effect on April 30, 1912, on traffic other than the products of the mills of the respective proprietary companies in the case of any of the parties to the record first herein above named, the Commission will upon appropriate petition herein enter an order requiring the establishment of such through routes and joint rates or enter upon an inquiry with respect thereto.

12. It Is Further Ordered, That the divisions of all joint rates herein required and authorized to be re-established on traffic other than the products of the mills of the several proprietary lumber companies shall be submitted to the Commission by the parties hereto for approval.

13. It Is Further Ordered, That, in the case of the following parties to the record, namely:

Gould Southwestern Railway Company;
Kentwood & Eastern Railway Company;
Kentwood, Greensburg & Southwestern Railroad Company;
Liberty-White Railroad Company;
Natchez, Columbia & Mobile Railroad Company;

for the reasons specified in the said supplemental report no allowances or divisions shall be made on the products of the mills of the respective proprietary lumber companies.

14. And It Is Further Ordered, That the joint rates herein above authorized or required may be published on three days' notice to the public and to the Commission, the tariffs to refer to this order by date and number.

By the Commission.

[SEAL.]

JOHN H. MARBLE, *Secretary*.

12. Your petitioners further state that as a common carrier the Louisiana & Pacific Railway Company became, and until midnight on the 30th day of April, 1912, was, a party to each and all of the following tariffs applicable on lumber and articles taking lumber rates to the various points in said tariffs mentioned, the lines publishing said tariffs and the lines mentioned and concurring therein constituting, with the petitioner the Louisiana & Pacific Railway Company, reasonable through routes and said tariffs prescribing reasonable through rates between points on the Louisiana & Pacific Railway and the several points therein mentioned,

to-wit:

*Southwestern Lines Lumber Tariffs Canceled May 1st, 1912, from
Louisiana & Pacific Railway Company Points.*

- S. W. L. 48-G I. C. C. 892 to Oklahoma points.
S. W. L. 50-E I. C. C. 868 to Ariz., Ark., Colo., Iowa, Ks., Mo.,
New Mex., S. D., Utah, Wyo.
S. W. L. 63-E I. C. C. 897 to Texas points.
S. W. L. 4-A I. C. C. 849 to Mexico points.

St. Louis & San Francisco Railway Company Lumber Tariff Canceled May 1st, 1912, from Louisiana & Pacific Railway Company Points.

- St. L. & S. F. 546-C I. C. C. 5313 to Ia., Mo., Minn., Wisc., N. D.,
S. D., etc.

*New Orleans, Texas & Mexico Railway Company Lumber Tariff
Canceled May 1st, 1912, from Louisiana & Pacific Railway Com-
pany Points.*

- N. O., T. & M. 217-G I. C. C. a-38 to New Orleans and Port Chalmette, La. (For Export.)

*Chicago, Rock Island & Pacific Railway Lumber Tariffs Canceled
May 1st, 1912, from Louisiana & Pacific Railway Company
Points.*

- | | |
|--|--|
| C. R. I. & P. 24000-E I. C. C. c-9235 to | Ala., Ark., Fla., Ill.,
Iowa, Ky., Minn., Miss.,
Mo., N. Mex., North
Dak., South Dak., Tenn.,
Wisc., Wyoming, etc. |
| 28013 | c-9062 Tie Plant, Ark., or
Winnfield, La., when
creosoted and reshipped
beyond. |

Louisiana Western Railroad Company, Morgan's Louisiana & Texas Railroad Company Tariffs Canceled May 1st, 1912, from Louisiana & Pacific Railway Points.

- L. W. & M. L. & T. 1018 I. C. C. 2706-B to Beaumont, Galveston,
Port Arthur, Sabine,
Tex. City and West
Port Arthur (for ex
port).
68 73-F 708-G. H. S. A. Ariz., Ark., Colo., Iowa
Kans., Minn., Mo.,
Mont., Neb., N. Mex.
North Dak., South
Dak., Utah, Wyo., etc

318-D 2454-B

Ala., Conn., Del., Ill.;
Ind., Ia., Ky., Me., Md.,
Mass., Mich., Minn.,
Miss., Mo., N. H., N.J.,
N. Y., N. C., Ohio, Pa.,
R. I., Tenn., Vt., Va.,
W. Va., Wisc., Canada,
etc.

334-B 2539-B

New Orleans, Algiers,
Gretna, La. (For ex-
port.)

315-C 2573-B

New York City,
(Gulf & Rail.)

176-F 23-T. & N. O.

Ill., Ind., Ky., Mich.,
Mo., New York, Ohio,
Pa., Tenn., West Va.,
Wisc., etc.

Chicago & Eastern Illinois Railway Company, St. Louis & San Francisco Railway Company and Chicago, Rock Island & Pacific Railway Company Lumber Tariff Canceled May 1st, 1912, from Louisiana & Pacific Railway Company Points.

2800-C I. C. C. 2596 to Ill., Ind., Ky., Mich., Mo., N. Y., Ohio, Pa., W. Va., Wisc., etc.

13. Your petitioners further say that prior to the 31st day of October, 1906, the petitioner Hudson River Lumber Company (located at De Ridder, Louisiana), erected a large sawmill at De Ridder, Louisiana, on the main line of The Kansas City Southern Railway, and the said Hudson River Lumber Company built a standard gauge railroad in an easterly direction to Bundick, a distance of about ten miles, for the purpose of reaching the timber owned by said Hudson River Lumber Company and bringing said timber to the mill of said Company, there to be manufactured into lumber and then to be delivered to the Kansas City Southern Railway at De Ridder for transportation to various markets. Said road so constructed by the Hudson River Lumber Company was formerly called the De Ridder & Eastern Railway.

Also prior to October, 1909, the petitioner King-Ryder Lumber Company, having a mill located at Bonami, Louisiana, built a standard gauge railroad in an eastern direction to Walla, Louisiana, for the purpose of hauling logs from the woods to Bonami, there to be manufactured into lumber and transported over the Kansas City Southern Railway to various markets.

The only trunk line connection for both of these roads then serving separately only the two mills above mentioned was the Kansas City Southern Railway. This trunk line road, the Kansas City Southern, encouraged the building of these properties, and for that purpose and in order to encourage the building of such lines of

road, extended the application of the rate on lumber in effect from Bonami and De Ridder to the woods at the end of the lines of these roads, the point of origin of logs, and allowed these roads, extending from the forest to the mills, certain divisions of the through rate on the manufactured lumber from Bonami and De Ridder to the various points to which said lumber was carried. This practice, known as the "milling in transit privilege," then obtained and now obtains by all railroad companies, and the same practice and custom is applied to grain; cotton and various other commodities, and such practice is recognized in law, and was at that time, and ever since has been, recognized by the Interstate Commerce Commission.

Also prior to October 31, 1906, there was in Calcasieu Parish, Louisiana, a lumber mill known as the Bradley-Ramsey Lumber Company, which said Bradley-Ramsey Lumber Company also had a line of railroad for hauling timber from the woods to the mill. This road was a narrow gauge road and extended from a point on the Calcasieu River in Section 9, Township 9, Range 8, Calcasieu Parish, Louisiana, to or near a station now called Curtis, and to a point in Section 2, Township 6, Range 10. This road consisted of about thirty miles of track.

About January 17, 1906, the petitioner the Long-Bell Lumber Company purchased the property of the Bradley-Ramsey Lumber Company, including therein two mills at Lake Charles and large tracts of timber in Calcasieu Parish, adjacent to the timber holdings of the King-Ryder Lumber Company and the Hudson River Lumber Company, and included in said purchase the said narrow-gauge logging road of about thirty miles in length, which was built for the purpose of getting logs from the timber north of Lake Charles to the mills at Lake Charles.

This purchase, together with the holdings of the King-Ryder Lumber Company and the Hudson River Lumber Company, gave to the petitioners the Long-Bell Lumber Company, King-Ryder Lumber Company and the Hudson River Lumber Company about forty miles of timber between De Ridder and Lake Charles, Louisiana. This body of timber, or portions thereof, at different times thereafter was sold by the Long-Bell Lumber Company to the other lumber companies petitioners herein, each of said companies owning certain bodies of timber adjacent to the mills built or owned respectively by them.

Up to this time—that is, to about January, 1906—the said petitioners owning the mills at De Ridder and Bonami had been seriously hampered in their efforts to dispose of their products because of the absence of railroad competition, there being but one trunk line connection, the Kansas City Southern Railway aforesaid, and this railroad was unable to furnish adequate transportation facilities and competitive rates to the markets desired to be reached by the said King-Ryder Lumber Company and Hudson River Lumber Company.

Under this condition of affairs and during the year 1906, certain of the owners of the stock of the various lumber companies then owning the forty miles of timber between De Ridder and Lake

Charles, together with the owners of the stock in the three lumber roads heretofore mentioned, seeing the necessity for arranging for additional transportation facilities in the form of new trunk line connections, and with this end in view, organized a company known as the Louisiana & Pacific Railway Company, one of the petitioners herein, being a reorganization of the company formerly owning the short line of railroad from Bonami to Walla.

It was the understanding, intention and plan of the parties organizing and promoting the said Louisiana & Pacific Railway Company that it would be built from De Ridder to Lake Charles, and that connections would be made with the Southern Pacific Railway System and the Missouri Pacific Railway System at Lake Charles, St. Louis & San Francisco System at Fulton, Louisiana; the Kansas City Southern Railway at Bonami; the Kansas City Southern Railway and the Gulf, Colorado & Santa Fe Railway at De Ridder; thus giving the mills located and to be located on the lines of the Louisiana & Pacific Railway additional and ample

72 transportation facilities on a competitive rate basis.

Based on this agreement, understanding and intention of the parties promoting and bringing about the organization of the Louisiana & Pacific Railway, the mill companies petitioners herein parted with and sold the lines of railway theretofore owned by them to the Louisiana & Pacific Railway Company, and the additional transportation facilities contemplated in the organization of the Louisiana & Pacific Railway Company, and by the owners who had sold the three short line roads hereinbefore mentioned, were being provided, or about to be provided, by the Louisiana & Pacific Railway, by the construction by said company of a main line of railroad extending from De Ridder to Lake Charles, with branch lines extending to Bundick, Walla and Curtis.

The said Louisiana & Pacific Railway Company at this time owned a line of railway from De Ridder, Louisiana, to a certain point on the Calcasieu River, at or near the northwest corner of Section Ten (10), Township Nine (9), Range Eight (8), in said Calcasieu Parish, a portion of said road being completed and in operation, a portion in process of construction, a portion consisting of the narrow-gauge railroad purchased from the Bradley-Ramsey Lumber Company; and the said Louisiana & Pacific Railway Company at this time—that is, prior to the 31st day of October, 1906, also owned a right of way for a railroad from Lake Charles, Louisiana, to a point on its said road near the northeast corner of Section Thirty-two (32), Township Eight (8), Range Eight (8), in said Calcasieu Parish, and was constructing its said road so as to

73 have a line of railroad from De Ridder, Louisiana, to Lake Charles, Louisiana, and with the branch line heretofore mentioned.

A plat showing the "De Ridder & Eastern Railroad," the "Louisiana & Pacific" as it then was, that is, extending from Bonami southeast, the portion of the road under construction; the narrow gauge road built by the Bradley-Ramsey Lumber Company, called the Lake Charles & Leesville Railroad; and the right of way from

Lake Charles to the northeast corner of said Section Thirty-two, is hereto annexed.

A plat showing the Louisiana & Pacific Railway Company lines and connections, as they now exist, is hereto annexed.

Under this condition of affairs and prior to the 31st day of October, 1906, the officers representing the interests controlling what is known as the Southern Pacific System entered into negotiations with the Louisiana & Pacific Railway Company looking to a joint interest by "the Southern Pacific System" and the Louisiana & Pacific Railway in that portion of the line being built between De Ridder and Lake Charles, to the end that the "Southern Pacific System" might have an interest in that portion of said line of railway between De Ridder and Lake Charles and might over that route reach a territory north of De Ridder; and the "Southern Pacific System," through a subsidiary company, known as the Lake Charles & Northern Railroad Company, purchased the said Louisiana & Pacific Railway Company's line of road and right of way between De Ridder and Lake Charles, extended the road northeast to Nitram, by trackage contract with the Santa Fe, and entered into a joint trackage agreement whereby, although the "Southern Pacific System"

74 would then own the railway from Lake Charles to De Ridder, yet the Louisiana & Pacific Railway Company, through said trackage agreement, had the right to still operate as its main line of railway the road from De Ridder to Lake Charles, Louisiana, and could still carry out the object and purpose for which said railroad was formed, to-wit, obtaining adequate transportation facilities and competitive rates and connections with the various other railroad systems in Calcasieu Parish, Louisiana; said contract, dated the 31st day of October, 1906, between the Louisiana & Pacific Railway and the Lake Charles & Northern Railroad Company, provides that the Lake Charles & Northern Railroad Company would, and it afterwards did, complete the said line of railroad so as to make a continuous, complete and direct line of railroad from De Ridder to Lake Charles, Louisiana, and thereby form an outlet with the defendant the Louisiana Western Railroad Company.

Said contract of sale between the said Louisiana & Pacific Railway Company and the Lake Charles & Northern Railroad Company further provided that in consideration of the sale of said portion of the Louisiana & Pacific Railway Company's railroad and right of way between De Ridder and Lake Charles, that the said Lake Charles & Northern Railroad Company would (and the said Lake Charles & Northern Railroad Company afterwards did) enter into a contract with the Louisiana & Pacific Railway Company, which said contract gives to the Louisiana & Pacific Railway Company joint trackage rights over the line of railroad from De Ridder to Lake Charles, and the right to operate trains of the said Louisiana & Pacific Railway Company over said road at a certain price

75 and upon certain terms fixed by said contract. Said line of railroad between De Ridder and Lake Charles will, for convenience and to distinguish it from the other portions of the Louisiana & Pacific Railway Company's railway, be hereafter referred to as the "joint track."

Said contract between the Louisiana & Pacific Railway Company and the said Lake Charles & Northern Railroad Company further provided that said contract, that is, the agreement for the sale of the "joint track" by the Louisiana & Pacific Railway Company to the Lake Charles & Northern Railroad Company, with all things pertaining thereto, was entered into on the faith of the consummation and performance of a certain agreement of October 31, 1906, between the respondent Louisiana Western Railroad Company and said petitioners Louisiana & Pacific Railway Company, the Hudson River Lumber Company, the King-Ryder Lumber Company, the Calcasieu Long Leaf Lumber Company and the Long-Bell Lumber Company.

14. Petitioners further allege that in Interstate Commerce shipments there prevails now, and has prevailed for many years, in all of the lumber producing districts of the South, with the full concurrence of the railroad systems and the producers and shippers of lumber, and with the full concurrence of the Interstate Commerce Commission, what are known as "blanket rates," that is, all lumber rates from all points on all lines in a given territory are the same to any point in any other given territory; that, consequently, the lumber rates for Interstate Commerce shippers from any point on the line of the petitioner the Louisiana & Pacific Railway Company, were, until the 1st day of May, 1912, the same as from any of its points of connection with other railroads.

15. Petitioners further state that under the conditions hereinbefore set out and contemporaneously with the contract of sale between the Louisiana & Pacific Railway Company and the Lake Charles & Northern Railroad Company, in reference to the track and roadbed between De Ridder and Lake Charles, and contemporaneously with the "joint trackage" agreement hereinbefore mentioned between the Louisiana & Pacific Railway Company and the Lake Charles & Northern Railroad Company, and on the 31st day of October, 1906, the petitioners herein and the respondent herein, Louisiana Western Railroad Company, entered into a tripartite agreement wherein and whereby it was agreed that the Louisiana Western Railroad Company and the Louisiana & Pacific Railway Company would, during the existence of said agreement, interchange business with each other at the point of connection of their respective lines and by means thereof establish a through line of railway with traffic thereover on the basis of rates and divisions as in said contract set forth.

The Lumber Companies petitioners herein agreed that during the existence of said agreement they would ship or cause to be shipped over the line of railroad of the Louisiana & Pacific Railway Company to its said connection at Lake Charles, there to be delivered to the Louisiana Western Railroad Company for transportation to destination, at least 40 per cent of the aggregate products of all the mills of the petitioners which were then or which might thereafter be located on the line of railway of the petitioner Louisiana & Pacific Railway Company.

77 The Louisiana & Pacific Railway Company, upon its part, agreed to deliver said freight to the Louisiana Western Railroad Company.

The Louisiana Western Railroad Company agreed that it would accept from the Louisiana & Pacific Railway Company all shipments by it offered to or from points between which joint rates were in effect and to transport the same with reasonable promptness and dispatch, and would use every reasonable effort to furnish the Louisiana & Pacific Railway Company with cars as requested by it from time to time to a number sufficient for transporting 40 per cent of the products of the mills of the petitioner's Lumber Companies along the line of railway of the Louisiana & Pacific Railway Company.

Said contract further provides that the Louisiana Western Railroad Company and the Louisiana & Pacific Railway Company agree, each with the other, that they will enter into joint tariffs relating to the joint traffic over their respective lines, and to file the same with the Interstate Commerce Commission, in the manner and form as required by law.

Said contract further provides that the Louisiana Western Railroad Company agrees that it will, at all times, during the existence of said agreement, publish for all points mentioned in its tariffs, the same freight rates on all products of the defendants from all points on the line of railway of the Louisiana & Pacific Railway Company, as are or shall be in effect from Lake Charles, Louisiana, on the line of the said Louisiana Western Railroad Company, which rate shall, at all times, during the existence of said agreement, be competitive with rates from other points in Calcasieu Parish, producing
78 yellow pine, to all destinations to which the Louisiana Western Railroad Company may be able to arrange through rates.

Said contract also provides that it shall commence and become effective on the date thereof and shall be and remain in full force and effect for a period of twenty (20) years thereafter, or so long as the petitioners Lumber Companies shall operate their mills along the line of railway of the Louisiana & Pacific Railway Company.

A full, true and complete copy of said contract is hereto attached, marked Exhibit "A," hereby referred to and made a part hereof, as fully as if set out herein in full.

16. Petitioner herein, the Longville Lumber Company, is not by name a party to the agreement between the other petitioners and the respondent Louisiana Western Railroad Company, but the Longville Lumber Company, since the execution of the said contract, purchased from one of the other petitioners timber along the line of the railroad of the Louisiana & Pacific Railway Company, has conformed to the provisions of said contract and is entitled to and claims the benefits of said contract, and has been recognized by all the parties to said contract as having the same rights thereunder as the other Lumber Companies petitioners herein.

17. At about the same time that the contracts heretofore mentioned were entered into the petitioners herein entered into a contract with the Colorado Southern, New Orleans & Pacific Railroad Company, which changed its name to, and is now, the New Orleans, Texas & Mexico Railroad Company, and with the St. Louis & San

79 Francisco Railroad Company, similar in its terms to the contract made between petitioners and the Louisiana Western Railroad Company, hereinbefore referred to, and which said contract between the petitioners and the Colorado Southern, New Orleans & Pacific Railroad Company and the St. Louis & San Francisco Railroad Company provides that the Colorado Southern, New Orleans & Pacific Railroad Company and the St. Louis & San Francisco Railroad Company of the one part and the Louisiana & Pacific Railroad Company of the other part will interchange business with each other at the point of connection of their respective lines, and by means thereof establish a through line of railway with traffic thereover on the basis of the division of rates as in said contract set forth; and that said Colorado Southern, New Orleans & Pacific Railroad Company and the St. Louis & San Francisco Railway Company agree each with the other that they will enter into joint tariffs relating to the joint traffic over their respective lines, and to file the same with the Interstate Commerce Commission, and to publish the same in the manner and form as required by law.

A copy of said contract is hereto attached, marked Exhibit "B," hereby referred to and made a part hereof, as fully as if set out herein.

The moving cause and consideration for these contracts was that the shippers had the right to route their freight over such line or lines of railroad as they saw fit, and in order to secure the performance of the contracts between the Louisiana & Pacific Railway Company and its connecting carriers, the Southern Pacific and Frisco Systems, it was necessary to have the shippers sign the contracts and agree to route their products over the line of the Louisiana & Pacific Railway Company.

80 18. That, relying upon the contracts between the petitioners herein and the respondent- herein, the Louisiana Western Railroad Company, the New Orleans, Texas & Mexico Railroad Company and the St. Louis and San Francisco Railroad Company, the various lumber companies petitioners herein, owning mills along the line of the Louisiana & Pacific Railway, have, each for itself, entered into contracts whereby the said lumber companies respectively agree to ship, or cause to be shipped, over the line of the Louisiana & Pacific Railway Company, all of the logs and products of said mills; the Louisiana & Pacific Railway Company agreeing to furnish the necessary transportation facilities for the handling of the logs from the point of connection with the Lumber Companies' road to the mill and the product of said logs from the mill, at the published tariff rates of said Companies, filed with the Interstate Commerce Commission.

And also upon the faith of said contracts between the petitioners herein and the defendant Railroad Companies, and upon the faith of the contracts between the said petitioners Lumber Companies and the said Louisiana & Pacific Railway Company, the said petitioners Lumber Companies, now owning mills along the line of the Louisiana & Pacific Railway, have constructed large and valuable mills for the manufacture of lumber, and have acquired in addition

to the lands and timber owned by them prior to the making of said contracts, other large bodies of timber land.

The investments which have been made by said lumber companies and the value of the plants and timber owned by them are as follows:

sl	Plant.	Timber, etc.	Total.
King-Ryder	\$448,127	\$3,167,477	\$3,615,604
Calcasieu	393,066	4,730,137	5,132,203
Longville	535,952	2,750,579	3,286,531
Hudson	308,560	3,260,844	3,569,404
	<hr/>	<hr/>	<hr/>
	\$1,685,705	\$13,909,037	\$15,603,742

The number of miles of steel rails laid in the tram railroads of the Lumber Companies and the value thereof and the number of locomotives, cars and equipment and the value thereof owned by the petitioners Lumber Companies and used in the transportation of logs to the railroad of the Louisiana & Pacific Railway Company is as follows:

Calcasieu Long Leaf Lumber Company.

Steel rails, 24.704 miles.....	\$24,679.05
Three locomotives.....	16,000.00
Stock and tank cars, 7 cabooses.....	3,080.62
Steel cars.....	559.55
	<hr/>
	\$44,319.22

Hudson River Lumber Company.

Steel rails, 22.0654 miles.....	\$43,069.81
Three locomotives.....	10,000.00
Hand, tank and water cars, and cabooses.....	3,181.37
	<hr/>
	\$56,251.18

King-Ryder Lumber Company.

Steel rails, 17.405 miles.....	\$33,048.72
Four locomotives.....	16,200.00
Stock and tank cars, cabooses, etc.....	9,608.07
Steel cars	1,030.28
Coach	250.00
	<hr/>
	\$60,137.07

Longville Lumber Company.

Steel rails.....	\$19,797.35
Three locomotives.....	26,930.52
Stock and tank cars, gondolas, etc.....	6,413.57
Steel cars.....	1,118.02
Pile drivers.....	6,344.58
	<hr/>
	\$60,604.04

The capacity of the mills of petitioners Lumber Companies on the line of the defendant Louisiana & Pacific Railway Company is 1,200 cars per month.

19. Your petitioners state that the decision and report of the Interstate Commerce Commission, being the decision published in the 17th Interstate Commerce Commission Reports, page 338 et seq., is an erroneous and incorrect statement of the law, and is a misapprehension, misstatement and misapplication of facts in so far as petitioners herein are concerned, and the statement in said opinion to the effect

"that any allowance or division made to or with the tap line that is owned or controlled directly or indirectly by the lumber mill or by its officers or board of directors, and that has no traffic beyond the logs that it hauls to the mill, except such as it may pick up as a mere incident to its efforts to serve the mill as an adjunct or plant facility, is an unlawful departure from the published rates"

is not a correct statement of the law, and is an erroneous and illegal holding upon the part of the Interstate Commerce Commission. And the whole of said opinion is an incorrect and improper statement of the facts and the law as applied to these petitioners, and the action of the trunk line railroad companies in August, 1910, in filing
83 with the Interstate Commerce Commission the schedules stating new, individual or joint rates, fares or charges, applicable upon the articles named therein in excess of the rates, fares and charges theretofore in effect, and in thereby canceling the through routes and joint rates which had theretofore been maintained with the petitioner Louisiana & Pacific Railway Company was and is unlawful, and was and is in wrongful violation and avoidance of the obligations and contracts heretofore pleaded and set out, and is in violation of the Interstate Commerce laws of the United States.

That the opinion and report heretofore referred to and published in the 23d Interstate Commerce Commission Reports, at page 277 et seq., is an erroneous and incorrect finding of facts, is a misapprehension and misapplication of the facts as found, is an erroneous and illegal statement of the law, it takes away from these petitioners vested rights guaranteed by law, and impairs and destroys the obligation of legal contracts which these petitioners have. And the statement in said report found on page 338 thereof, to-wit:

"The cancellations by the trunk lines will be allowed and become effective on May 1st, as provided in the tariffs now on file,"

constitutes an order to the trunk line railroad companies to cancel the tariffs heretofore mentioned in paragraph 12 hereof, constitutes a denial and dismissal of the petition of the Louisiana & Pacific Railway Company to the Commission, heretofore pleaded in paragraph 9 hereof, to issue an order to said trunk line railroads to continue the through routes and joint rates theretofore existing with
84 the petitioner Louisiana & Pacific Railway Company, as provided for in the tariffs set out in paragraph 12 hereof.

That the Interstate Commerce Commission by its said opinions and reports herein referred to, and by its order allowing the cancellation by the trunk lines to become effective on May 1, as provided by the tariffs then on file, and by its supplemental report dated May 14, 1912, and by its order dated May 14, 1912, and by its amended order of October 30, 1912, herein set out in full, has erroneously, illegally and improperly held that the petitioner Louisiana & Pacific Railway Company is not a common carrier in reference to logs and lumber and that the service it performs is not a common carrier service when said service is performed in the hauling of logs and lumber and the products of the petitioner Lumber Companies' mills, and has, by both of its said opinions, to-wit, the opinion dated April 23, 1912, and the opinion dated May 14, 1912, and by its order dated May 14, 1912, and its amended order dated October 30, 1912, ordered the respondent Railroad Companies to cease the maintenance of through routes and joint rates on lumber with the petitioner the Louisiana & Pacific Railway Company, and to cease paying any division whatsoever of the rates to the petitioner Louisiana & Pacific Railway Company.

And by said opinions and reports and orders the Interstate Commerce Commission has ordered and required the respondent Railroad Companies to submit for the approval of the Interstate Commerce Commission the basis of their divisions on through joint class and commodity rates in effect or hereafter made effective to or from
85 points on the line of the petitioner Louisiana & Pacific Railway Company, which said order is beyond the jurisdiction of the Interstate Commerce Commission, and commands the respondent Railroad Companies to violate the terms of the contracts with the petitioners, herein set out, and is in violation of Section 15 of the Interstate Commerce Act, which provides that the Commission may establish through routes and joint classifications and may "establish joint rates as the maximum to be charged, and may prescribe the divisions of such rates, as hereinbefore provided, and the terms and conditions under which such through rates shall be operated whenever the carriers themselves shall have refused or neglected to establish voluntarily such through rates or joint classifications or joint rates." Your petitioners further allege that the respondent Railroad Companies and the petitioner Louisiana & Pacific Railway Company have not refused or neglected to establish voluntarily such through routes or joint classifications or joint rates, but on the contrary, as hereinbefore set out, have agreed to establish such through routes and joint classifications and joint rates, and have filed with the Interstate Commerce Commission their tariffs showing such through routes and joint classifications and joint rates, all of which will fully appear by Tariff Index Number 9-B, Interstate Commerce Commission Number 21.

Your petitioners further allege that the respondents Railroad Companies did not voluntarily cancel the through rates under and by virtue of the canceling tariffs hereinbefore referred to, but the action of the respondents Railroad Companies in that regard was had under the compulsion of the several reports, decisions and

86 orders of the Interstate Commerce Commission hereinbefore referred to, and under the belief induced by said reports, decisions and orders, that if said joint through rates with the petitioner Louisiana & Pacific Railway Company were not canceled, that said respondents Railroad Companies, their officers and agents, would be subject to criminal prosecution at the instance of the Interstate Commerce Commission as for alleged rebates and alleged unlawful discrimination.

Your petitioners further allege that the respondents Louisiana Western Railroad Company, Morgan's Louisiana & Texas Railway & Steamship Company; New Orleans, Texas & Mexico Railroad, and the St. Louis & San Francisco Railroad Company, and other common carriers subject to the Act to regulate commerce, have for years recognized the petitioner Louisiana & Pacific Railway Company as a common carrier in every respect and fully entitled to all the rights and privileges belonging to a common carrier under the law; and, but for the action of the Interstate Commerce Commission, herein complained of, would continue to so recognize said petitioner as a common carrier and would participate with said petitioner in joint rates upon lumber and forest products and the maintenance of through routes to interstate destinations.

Your petitioners further state that the statement made in the finding of facts in reference to the Louisiana & Pacific Railway Company, to the effect that there is no charge made for the service of hauling the logs to the mills, is incorrect and misleading, the fact being that the charge for transporting the logs and finished product is provided for in the through rate which applies from the point at

87 which the logs are delivered to the Louisiana & Pacific Railway Company by the Lumber Companies, and includes the transportation of the logs to the mill and the product from the mill to final destination, and is a practice which has long been recognized by the Interstate Commerce Commission, not only on lumber, but on other commodities, and is not in itself illegal.

The statement "the steel for these tracks is furnished and supplied by the Tap Line without charge," is incorrect and untrue. There is no steel or other equipment supplied by the Louisiana & Pacific Railway Company to the Lumber Companies. At the time of the hearing of the case it was the custom of the Louisiana & Pacific Railway Company to lease or lend to shippers on its line steel and other equipment for the trams of said lumber companies beyond the line of the railroad of the Louisiana & Pacific Railway Company; this practice seemed to be condemned by the Commission, and by reason thereof the Louisiana & Pacific Railway Company sold and transferred to the lumber companies all steel and other equipment which was being used by the lumber companies in the tram roads of the lumber companies, and there is now no steel or other equipment furnished to the lumber companies by the Louisiana & Pacific Railway Company, and a copy of the contract or bill of sale evidencing this fact was filed with the Interstate Commerce Commission before the closing of the "Tap Line case", before said Commission.

Petitioners further state that upon the finding of facts made by the Interstate Commerce Commission, hereinabove set out, the petitioner Louisiana & Pacific Railway Company is a common carrier, performs a common carrier service, is entitled to the maintenance of through routes and joint rates and to divisions, as in its contracts provided.

88 Petitioners further state that the entire opinion, report, finding and order of the Interstate Commerce Commission, made under the caption, "Investigation and Suspension Docket No. 11, The Tap-Line Case," is inconsistent with itself, with the former decisions and reports of the Interstate Commerce Commission, permits and requires discriminations and inequalities, and a compliance with said decisions and requirements compels the railroad companies to violate Section 3 of the Interstate Commerce Act, hereinafter set out. And said decisions and orders are in violation of and in conflict with the "Commodities Clause" of Section 1 of said Interstate Commerce Act.

Your petitioners further allege that said decisions and orders hereinbefore set out were made by the said Interstate Commerce Commission as a result of investigation and alleged information furnished by its investigators without any opportunity to these petitioners of cross-examination or rebuttal.

Your petitioners allege that the Interstate Commerce Commission has no jurisdiction or authority in law to decide that the petitioner Louisiana & Pacific Railway Company is not a common carrier in respect to the logs and lumber which it transports for petitioners Lumber Companies (although holding that it is a common carrier and compelling it to be a common carrier with respect to other tonnage which it hauls), and by so holding and by its order to the trunk line railroad companies to cancel through routes and joint rates and to cease for two years paying divisions to the petitioner Louisiana & Pacific Railway Company, the

89 Interstate Commerce Commission attempts to nullify state laws and the Interstate Commerce laws and its own rulings and decisions heretofore made; and the decision, in reference to the petitioner Louisiana & Pacific Railway Company and the orders of the Interstate Commerce Commission, hereinabove set out, are each and all unlawful, erroneous and invalid.

Your petitioners further allege that said decisions and orders are arbitrary, unreasonable and in excess of the power and authority of the said Commission and constitute violations of Section 3 of the Act which forbids unjust discrimination between persons, localities and traffic. As an instance of the unequal, discriminatory, arbitrary and unreasonable Act of the Commission, petitioner alleges that many of the so-called tap lines whose status was determined by the Commission in the decisions and orders hereinbefore set out, were recognized as common carriers of the traffic of the so-called proprietary interests and others denied such a status without any distinction in fact or manner of operation.

Further, petitioners allege that notwithstanding the Commission established a rule that under Section 15 payment should be made to

the shipper when the transportation was not less than 1,000 feet nor more than three miles from the trunk line connection, nevertheless no such allowance was prescribed by the Commission in the case of your petitioners, but on the contrary such an allowance is expressly negatived by the Commission.

Your petitioners further allege that other short line railroads mentioned in the decisions and orders above set forth have been by the Commission directed to establish joint rates from points
90 on their line to interstate destination points, when in fact all the circumstances and conditions which properly may be considered by the Commission in an investigation of this sort require that the petitioners be given joint rates over through routes to interstate destinations. In support of this allegation the petitioners call attention to the findings of the Commission and make said findings part of this petition as fully as if set forth herein, in the following cases:

Fourche River Valley & Indian Territory Railway Company.

The Nacogdoches & Southeastern Railroad Company.

Trinity Valley & Northern Railway Company.

Butler County Railroad Company.

Red River & Gulf Railroad Company, and others.

Your petitioners further state that the Interstate Commerce Commission in holding that the tracks and equipment of the Louisiana & Pacific Railway Company with respect to the industry of the petitioners Lumber Companies are plant facilities and that the service performed therewith for the said Lumber Companies in moving logs to their mills and performed therewith in moving the products of the said mills of the petitioners Lumber Companies to the junction of the Louisiana & Pacific Railway Company with its connecting trunk line companies, is not a service of transportation by a common carrier railroad, but is a plant service by a plant facility—is without any basis in fact or in law. Said finding and conclusion is arbitrary,

unreasonable and in violation of the Act to Regulate Commerce and the decisions of the Supreme Court of the United
91 States.

Your petitioners assert that under the provisions of the Act to Regulate Commerce and the interpretation thereof by the Supreme Court of the United States upon the facts found by the Commission and set forth herein the said petitioner Louisiana & Pacific Railway Company is a common carrier by railroad of the logs of the petitioners Lumber Companies, in that it furnishes a railroad and maintains the same in condition for the movement of said logs and is a common carrier of the products of the petitioners Lumber Companies from their mills to the junction points with the Louisiana & Pacific Railway Company's connecting carriers, and inasmuch as the larger proportion of the output of said mills of the petitioners Lumber Companies is destined to interstate destinations, the said movement from said petitioners Lumber Companies' mills to said junction points is a service of transportation by a common carrier railroad in interstate commerce.

Your petitioners further state that no part of that portion of the

report headed "Irregular Practices of Tap-Lines," found on pages 649-650 of the 23d Interstate Commerce Commission Reports, applies in any respect whatsoever to the petitioner Louisiana & Pacific Railway Company, but that on the contrary said petitioner Louisiana & Pacific Railway Company, "files annual reports with the Commission"; said reports "are complete and comply with the requirements of the Act"; it does "publish local rates to apply on traffic received from or delivered to its trunk line connections"; it does "charge for carrying passengers and less than carload shipments in all cases, and under authority of published tariffs"; it does not "permit the use by any lumber company of its tracks, without charging therefor," but on the contrary all of its charges and rates
 92 "are under tariff authority filed with the Interstate Commerce Commission"; it complies with the "Hours of Service law"; with the "Safety Appliance Act," and all the "other Acts imposing requirements on common carriers engaged in interstate commerce."

The Interstate Commerce Commission itself, while the "Tap-Line Case" was pending before it, caused a prosecution to be entered against the petitioner Louisiana & Pacific Railway Company, because one car in a train operated by said Company, to-wit, St. Louis & San Francisco Car No. 30741, had a broken and disconnected uncoupling chain thereon, and in said suit brought by the United States against it, said Louisiana & Pacific Railway Company was fined for such offense, and paid a judgment in the sum of \$100.00, and costs amounting to \$10.25.

There is no "lack of attention on the part of the Louisiana & Pacific Railway Company to the rules and regulations respecting the filing of tariffs and keeping of accounts," but on the contrary, said railway company complies strictly with such rules and regulations and pays out thousands of dollars annually in so doing and in the publishing of tariffs, and the books of the Louisiana & Pacific Railway Company have always been open and "full access thereto has been given to the examiners of the Interstate Commerce Commission."

Your petitioners allege that if any such failures to comply with the Act to Regulate Commerce existed on the line of the petitioner

Louisiana & Pacific Railway Company, or if any such irregular practices do exist upon the line of the said petitioner,
 93 it is the duty of the said Interstate Commerce Commission to invoke the curative processes provided for in the Act, and petitioners further allege that such lapses or irregular practices, if any, do not constitute any basis for denial to said petitioner Louisiana & Pacific Railway Company and its shippers of the status which the law confers upon it.

20. Petitioners allege that the action of the respondents the Louisiana Western Railroad Company, New Orleans, Texas & Mexico Railroad Company, and the St. Louis & San Francisco Railroad Company, in filing with the Interstate Commerce Commission, in August, 1910, the schedule designated as Supplement No. 3 to Interstate Commerce Commission No. 23, effective the 10th day of September, 1910, and Supplement No. 9 to I. C. C. No. 2454-B,

and schedule designated as Supplements Nos. 5 and 6 to Interstate Commerce Commission Nos. 6073 and 6194, and any and all other schedules filed by said respondents which state new, individual or joint rates, fares or charges that are in excess of the rates, fares and charges theretofore in effect, and which in effect cancel the through routes and joint rates with the petitioner Louisiana & Pacific Railway Company, is violative of the terms, obligations and conditions of said contracts between the respondents Louisiana Western Railroad Company, New Orleans, Texas & Mexico Railroad Company, the St. Louis & San Francisco Railroad Company and the petitioner Louisiana & Pacific Railway Company heretofore pleaded; and that the same is without cause, justification or excuse; and that the action of said respondent Railway Companies in filing said schedules

94 which state new, individual or joint rates, fares or charges that are in excess of the rates, fares and charges theretofore in effect, and which cancel through routes and joint rates with the petitioner Louisiana & Pacific Railway Company is in violation of that portion of Section 1 of the Act to Regulate Commerce, reading as follows:

"All charges made for any service rendered or to be rendered in the transportation of passengers or property * * * or in connection therewith shall be just and reasonable; and every unjust and unreasonable charge for such service, or any part thereof, is prohibited and declared to be unlawful, * * * and it is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe and enforce just and reasonable classifications of property for transportation with reference to which rates, tariffs, regulations or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates or tariffs," * * *

and is in violation of Section 3 of the Interstate Commerce Act, reading as follows:

"That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their

95 respective lines, and for the receiving, forwarding and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business."

And the said action of said respondent Railroad Companies pre-

vents these petitioners from having interstate traffic moved by said common carriers, the petitioner Louisiana & Pacific Railway Company and the respondent Railway Companies, at the same rates as are charged or upon terms or conditions as favorable as those given by said common carriers for like traffic under similar conditions to other shippers; and the action of the respondent Interstate Commerce Commission first in declaring the law to be as said respondent declared the law to be by its opinion in the 17th Interstate Commerce Commission Reports, page 338 et seq., and later as it declared the law to be by its report contained in the 23d Interstate Commerce Commission Report, at page 277 et seq., and by the statement in said report permitting the cancellations by the trunk lines to become effective, is in violation of that portion of Section 15 of the Interstate Commerce law reading as follows, to-wit:

"The Commission may also, after hearing on a complaint or upon its own initiative without complaint, establish through routes and joint classifications."

21. And the petitioners allege that the rights and equities of petitioners are so interwoven and complicated by their mutual
96 undertakings under the contracts heretofore referred to and heretofore set out, that petitioners will be irreparably injured by the said respondents Railroad Companies' violation of said contracts, and petitioners will be without any adequate remedy at law.

That a multiplicity of suits will inevitably result, and circuitous action will be entailed upon the petitioners and each of them by the said respondents' avoidance and breach of said contracts.

That over 90 per cent of the lumber tonnage (more than 1,000 cars per month) handled by the petitioner Louisiana & Pacific Railway Company is destined to interstate points; that since the 1st day of May, 1912, the petitioner Louisiana & Pacific Railway Company has charged and is now charging on lumber destined to interstate points its local rate on all lumber shipments from all points to various points of connection with respondent Railway Companies.

The petitioners Lumber Companies are being, and will continue to be, placed at a serious disadvantage in regard to other lumber industries in the same territory not on the line of the Louisiana & Pacific Railway, because they are compelled to pay on all shipments of lumber destined to interstate points the local rate of the Louisiana & Pacific Railway to the junctions with respondent Railroad Companies, plus the blanket rate (which petitioners' competitors in said territory now enjoy) from said junctions to final destination of the lumber, the combination of the two rates placing petitioners Lumber Companies at a disadvantage as compared with petitioners Lumber Companies' competitors in the same territory enjoying the blanket rate.

97 Petitioners Lumber Companies have no competitive rates on interstate lumber traffic, and the absence of through routes and joint rates greatly retards and impairs the business and investments of the petitioners Lumber Companies, and the damages so caused to said petitioners cannot be adequately measured, and constitute irreparable loss.

The absence of through routes and joint rates and the effect of the Interstate Commerce Commission's said decisions will be to place the petitioners back in the condition in which they were prior to the building of the Louisiana & Pacific Railway in 1906, localize the business of the petitioner Mill Companies and hand over the business of the Louisiana & Pacific Railway to the Southern Pacific System, and, on account of the increased business of these mills, create a condition more intolerable than the conditions which prompted the building of the Louisiana & Pacific Railway.

Your petitioners further allege that in the case of Central Yellow Pine Association v. Vicksburg, Shreveport & Pacific Railroad Company, 10 Interstate Commerce Commission Reports, page 193, the Interstate Commerce Commission held that divisions such as those condemned in the opinions in "The Tap Line Case" were proper, and that, acting under the decision in the said Central Yellow Pine Association case, and other decisions of the Interstate Commerce Commission, and acting under the law of the State of Louisiana, the investments by the petitioners herein mentioned were made; that under the Constitution and Laws of the State of Louisiana the petitioner Louisiana & Pacific Railway Company is compelled to operate as a common carrier and its status as a common carrier is

98 fixed by State and Federal laws, and the Interstate Commerce Commission is wholly without right or authority of law to deny to the petitioner the Louisiana & Pacific Railway Company the right to operate as a common carrier of all traffic transported; that said Louisiana & Pacific Railway Company has invested in physical property more than a half million dollars; its operating expenses for the fiscal year 1911 were \$241,248.47; its earnings for the same fiscal year were \$229,067.94; its operating expenses for the fiscal year 1912 were \$224,980.36; its earnings for the same fiscal year were \$228,352.54. Ninety per cent of its revenue is derived from interstate freight, most of which comes from the transportation of lumber; less than 10 per cent of its revenue is from intrastate freight.

In the case of Freeo Valley Railroad Company v. Hodges, Secretary of State, 151 Southwestern Reporter, page 281, the Supreme Court of Arkansas, on November 18, 1912 held that the Freeo Valley Railroad Company (one of the parties to the proceeding in the "Tap Line case") could not surrender its charter and cease to perform its duties to the state and the public, as a common carrier, and this is doubtless the law and will doubtless be so held by the Supreme Court of Louisiana and all other states.

Unless the petitioner Louisiana & Pacific Railway Company is permitted to earn revenue on all interstate shipments of lumber, it cannot pay its operating expenses or interest on its bonded indebtedness. The reports, decisions and orders of the Interstate Commerce Commission hereinbefore set out operate to confiscate said petitioner's property and to deprive it of its property without due process of law, and in violation of the Fifth Amendment to

99 the Constitution of the United States.

The petitioners Lumber Companies have performed, and are now performing, in every respect, the contracts heretofore recited

to be performed by them, and have annually, since the making of said contracts, delivered to the petitioner Louisiana & Pacific Railway Company, and the Louisiana & Pacific Railway Company has delivered to the respondents Louisiana Western Railroad Company, New Orleans, Texas & Mexico Railroad Company, and the St. Louis & San Francisco Railroad Company, freight upon which charges to the amount of hundreds of thousands of dollars have been paid. The petitioners, and each of them, are remediless, unless relief be given by this Court by injunction and by other proper orders and decrees against the orders and requirements made by the Interstate Commerce Commission heretofore pleaded, and against the violation by the respondent Railroad Companies of the terms of the contracts between petitioners and said defendants hereinabove referred to and set out.

Your petitioners aver that the Commission in its finding and in that paragraph of the order which holds that the service performed by the Louisiana & Pacific Railway Company for the petitioners Lumber Companies, in moving logs to their mills and in moving the products of the mills to the trunk lines, is not a service of transportation by a common carrier railroad, acted erroneously and in violation of the provisions of the Act to Regulate Commerce; your petitioners aver that under the statement of facts contained in the report and opinion of the Commission the said service is in law a

service of transportation by a common carrier railroad and
100 that in accordance with the law the petitioner Louisiana & Pacific Railway Company should file tariffs of its charges for said service. Under the report and order of the Commission heretofore set out, no tariffs lawfully can be filed covering such movement; that if such movement is transportation, the petitioner Louisiana & Pacific Railway Company will be subject to the penalties provided in the statute for failure to file tariffs.

Further, your petitioners aver that under the statute no common carrier can engage in interstate commerce until it has first filed tariffs covering the transportation in which it is engaged. Your petitioners Lumber Companies therefore aver that their traffic could not be handled by the petitioner Louisiana & Pacific Railway Company, because the findings of the Commission that the said movement is not transportation by a common carrier railroad precludes the filing of tariffs. For these reasons the said order is inconsistent with the Act to Regulate Commerce and destroys the rights of the petitioners Lumber Companies to have the products of their mills moved by the Louisiana & Pacific Railway Company, and prevents said petitioner Railway Company from transporting said products as a common carrier in interstate commerce.

Your petitioners allege that the said order of the Commission, dated October 30, 1912, by its terms is directed against the respondent Railroad Companies, among others; that the petitioners were parties to the proceedings before the Interstate Commerce Commission out of which the orders, reports and decisions complained of grew;

101 that their rights are vitally affected by said reports, decisions and orders; that the respondent trunk line railroads have profited materially by the aforesaid reports, decisions and orders, and will so continue to profit by reason of the fact that the existing lumber rates from the junction point between the petitioner Louisiana & Pacific Railway Company and the said trunk line companies are the same as those which prior to May 1, 1912, applied from the petitioners Lumber Companies' mills on the line of the petitioner Louisiana & Pacific Railway Company; that therefore your petitioners allege that the said reports, decisions and orders of the said Commission as vitally affect the property rights of the petitioners as if said order was directed against the Louisiana & Pacific Railway Company by name.

Your petitioners and each of them are remediless, unless relief be given by this Court by injunction and by other proper orders and decrees against the orders and requirements made by the Interstate Commerce Commission heretofore pleaded.

22. Wherefore, your petitioners say that the said reports and decisions of the Interstate Commerce Commission, and the orders of date May 14, 1912, and October 30, 1912, made in pursuance of said reports and decisions, are invalid and void for the following, among other, reasons:

“(1) The Interstate Commerce Commission is wholly without power, authority or jurisdiction to declare that there is any ‘proprietary’ lumber company or companies of the Louisiana & Pacific Railway Company; to declare that ‘the service performed for the respective proprietary lumber companies in moving the logs from their respective forests to their respective mills, and in moving 102 the product from the mills to the trunk lines is not a service of transportation by a common carrier railroad, but is a plant service by a plant facility, and that any allowances or divisions out of the rate on account thereof are unlawful,’ in so far as such declaration and order is applied to the petitioner Louisiana & Pacific Railway Company, or to deprive said company of its rights as a common carrier granted to it under the Constitution and laws of the State of Louisiana and the Constitution and laws of the United States.

(2) The Interstate Commerce Commission is wholly without power, authority or jurisdiction to declare that the transportation offered by the trunk line carriers, such as the respondent railroad companies, extends three miles distance from the line of such railroads and that an allowance may be made for the movement which is more than 1,000 feet from said line and not in excess of three miles from said line of railroad. The said holding is legislation, pure and simple, and the exercise of arbitrary and unreasonable power and constitutes a gross discrimination and violation of the Act to Regulate Commerce.

(3) Said order is unconstitutional, invalid and void, in that said order impairs the validity of the contracts hereinbefore declared upon, contrary to the provisions of the Fifth Amendment to the United States Constitution.

(4) Said order unduly discriminates against the petitioner Lumber Companies, as shippers, compared with shippers on the line of the Louisiana & Pacific Railroad and on other railroads.

(5) Said order deprives your petitioners of the through routes and joint rates provided for by Section 15 of the Interstate Commerce Act.

(6) The uncontradicted evidence in the proceeding had by the Interstate Commerce Commission under the title 'Investigation and suspension Docket No. 11,' shows that the petitioner Louisiana &

103 Pacific Railway Company is a common carrier under the law, and the finding of the Interstate Commerce Commission that the petitioner Louisiana & Pacific Railway Company is not a common carrier is not based on any substantial testimony.

(7) Under the findings of fact made by the Interstate Commerce Commission, the Louisiana & Pacific Railway Company is a common carrier of lumber of the petitioner Lumber Companies, and of all other mills on its line of railway.

(8) The aforesaid decisions, reports and orders of the Interstate Commerce Commission require the petitioner Louisiana & Pacific Railway Company to maintain through routes and joint rates with its connecting carriers on traffic of others than the petitioner Lumber Companies, while forbidding the maintenance of through routes and joint rates and divisions upon lumber produced by the petitioner Lumber Companies when destined to interstate points, and thereby said order grossly and unjustly discriminates against the petitioners Lumber Companies, and subjects them to undue prejudice and disadvantage.

(9) The findings, reports, decisions and orders of the Commission hereinbefore set out are arbitrary, unreasonable and in excess of the power of the Commission, in that, among other things, the Commission compels unjust and unlawful discrimination as between the so-called 'tap line' railroads named in the orders hereinbefore set out."

23. Wherefore, petitioners, and each of them, pray that the said orders of the Interstate Commission dated May 14, 1912, and October 30, 1912, be enjoined, set aside and annulled; that the United States of America, the Interstate Commerce Commission and all persons claiming to act under their authority, direction or
104 control, be enjoined and restrained from enforcing or attempting in any wise to enforce or put in effect any portion of said orders which require the respondent Railway Companies to cease and for a period of two years thereafter abstain from maintaining through routes and joint rates upon any property transported from the mills of the petitioners Lumber Companies on the line of the Louisiana & Pacific Railway Company.

And your petitioners further pray that the respondents, Railroad Companies, be enjoined and restrained from violating the terms of the said contracts herein pleaded and herein fully set out under the marks of Exhibits "A" and "B," and that they and each of them be specifically ordered and required to continue to observe the terms, conditions and obligations of said contracts, by filing with the Interstate Commerce Commission the tariffs described and

set out in paragraph 12 hereof (or similar tariffs), giving to the Louisiana & Pacific Railway Company through interstate rates, and that the Interstate Commerce Commission be specifically ordered and commanded to accept, receive and file and to permit to become effective upon three days' notice the tariffs specifically described in paragraph 12 hereof, or similar tariffs.

And your petitioners pray for all other and further relief as in equity and good conscience they may be entitled to receive.

And may it please Your Honors to grant unto your petitioners a subpoena of the United States of America, issuing out of and under the seal of this Honorable Court, directed to the United States of America, Louisiana Western Railroad Company, Morgan's

Louisiana & Texas Railway & Steamship Company, New Orleans, Texas & Mexico Railroad Company and the St.

Louis and San Francisco Railroad Company, the respondents herein respectively, therein and thereby commanding them, on a day certain therein to be named, and under a certain penalty, to be and appear before this Honorable Court, then and there to answer, but not under oath (an answer under oath being hereby expressly waived), all and singular, the premises, and to stand to, perform and abide by such order, direction or decree as may be made against them in the premises, as shall seem meet and agreeable to equity and good conscience.

And your petitioners, as in duty bound, will ever pray.

LOUISIANA & PACIFIC RAILROAD
COMPANY,

HUDSON RIVER LUMBER COMPANY,

KING-RYDER LUMBER COMPANY,

CALCASIEU LONG LEAF LUMBER
COMPANY,

LONGVILLE LUMBER COMPANY, AND

THE LONG-BELL LUMBER COMPANY,

By W. R. THURMOND,

H. M. GARWOOD,

L. M. WALTER,

Their Solicitors.

STATE OF MISSOURI,

County of Jackson, ss:

R. A. Long, being duly sworn, on his oath states that he is the president of the petitioner the Louisiana & Pacific Railway Company, and that he is president of the petitioner The Long-Bell Lumber Company.

That he has read the above and foregoing petition and is familiar with the facts therein stated, and that the allegations and averments therein made and contained are true.

R. A. LONG.

106 Subscribed and sworn to before me this 4th day of January, 1913.

My commission expires April 29, 1915.

[SEAL.]

HOYT A. POORMAN,

Notary Public in and for Jackson County, Missouri.

STATE OF MISSOURI,
County of Jackson, ss:

C. B. Sweet, being duly sworn, on his oath states that he is president of the petitioners Hudson River Lumber Company, the King-Ryder Lumber Company, the Calcasieu Long Leaf Lumber Company, and the Longville Lumber Company.

That he has read the above and foregoing petition and is familiar with the facts therein stated, and that the allegations and averments therein made and contained are true.

C. B. SWEET.

Subscribed and sworn to before me this 4th day of January, 1913.
My commission expires April 29, 1915.

[SEAL.]

HOYT A. POORMAN,
Notary Public in and for Jackson County, Missouri.

EXHIBIT "A."

This Agreement, made and entered into this 31st day of October, Nineteen Hundred and Six (1906), by and between the Louisiana Western Railroad Company, a corporation under the laws of the State of Louisiana, party of the first part; the Louisiana & Pacific Railway Company, a corporation under the laws of the State of Louisiana, party of the second part, and the Hudson River Lumber Company, the King-Ryder Lumber Company, the Calcasieu Long Leaf Lumber Company, and The Long-Bell Lumber Company, parties of the third part.

WITNESSETH: The said party of the first part controls a line of railroad, constituting a part of what is known as the Southern Pacific System, and directly and through its connections reaches a large number of markets wherein the products of the parties of the third part may be sold.

The said party of the second part controls and operates a line of railway reaching large tracts of timber land of said parties of the third part, and, at the request of said parties of the third part, is extending its said line of railroad and is about to acquire a better connection with the line of said party of the first part at Lake Charles, Louisiana; and, when such connection is made, it, together with the line of said party of the first part and its connections, will furnish to said parties of the third part facilities for transporting their timber to their mills, located along the line of railway of said party of the second part, and for transporting the products of the mills to the markets on the lines of said party of the first part and its connections.

The business of said third parties is very much hampered because of lack of adequate railway facilities for transporting the products of their mills to desirable markets, and for that reason it will be greatly to the advantage of said parties of the third part to have said party of the second part extend its said line and make a better

connection thereof with the line of the said party of the first part, as above mentioned.

108 Now Therefore, The parties hereto, in consideration of the mutual benefits which will result to them, respectively, and of the mutual covenants and agreements hereinafter set forth, to be by them kept and performed, have and do hereby covenant and agree, each with the others, as follows:

1. The said party of the first part and the said party of the second part agree that, during the existence of this agreement, they will interchange business with each other at said point of connection of their respective lines, that is, Lake Charles, Louisiana, and by means thereof will establish a through line of railway with traffic thereover on the basis of a division of rates, as hereinafter set forth.

2. The said parties of the third part agree that during each and every month, until the expiration of this agreement, they will ship, or cause to be shipped, over the line of railway of the said party of the second part to said connection at Lake Charles, and there to be delivered to the line of said party of the first part, for transportation to its destination, at least forty per cent (40%) of the aggregate products of all their mills, which now are or may be hereafter located on the said line of railway of said second party. And said party of the second part hereby agrees that it will, during the existence of this agreement, deliver to said party of the first part at said point of connection, Lake Charles, Louisiana, said amount of at least forty per cent (40%) of the aggregate products from said mills for the purpose of having the same transported from said point of connection over the line of said party of the second part and said party of the first part and their connections to points of destination thereof.

109 The said third parties also agree to so route at least sixty-five per cent (65%) of all incoming freight as to cause the same to be shipped over the line of said first party; provided the place at which it is purchased will enable the said third parties to so route it as to cause it to be shipped over the line of said first party at an equal rate with the rates which said third parties may be able to obtain for such freight over other lines, which, with their connections will reach points of destination of such freight.

3. The party of the first part agrees that, during the existence of this agreement, it will accept from said party of the second part all shipments by it offered, to or from points between which joint rates are in effect, to transport same with reasonable promptness and despatch and to use every reasonable effort to furnish said party of the second part with cars as requested by it from time to time, to a number sufficient for transporting at least forty per cent (40%) of all the products of the mills of said parties of the third part (now existing or which may hereafter be built) along the line of railway of said second party. It is understood and agreed, however, that if the party of the first part shall fail during any calendar month to furnish the number of cars requested by the second party, and necessary in order to transport at least forty per cent (40%) of the products of the aforesaid mills during said month, then and in such event the

party of the first part shall not be obligated thereafter to make up such deficit of cars in such calendar month, nor shall said second party be obligated thereafter to furnish freight to make up
110 such deficit on account of the failure of said party to furnish said cars in any calendar month.

4. The said party of the first part and said party of the second part agree, each with the other, that they will enter into joint tariffs relating to the joint traffic over their respective lines, and to file the same with the Interstate Commerce Commission, in the manner and form as required by law.

5. Said party of the second part and said parties of the third part hereby agree that they will cause or permit all shipments that may be delivered to said party of the first part, under the terms of this agreement, to be so routed by the party of the first part as to give the railways constituting the line or system known as the Southern Pacific System, such haul as shall yield to them the largest revenue.

6. In respect to the division of freight rates between the said party of the first part and the said party of the second part it is hereby agreed that, during the existence of this agreement, the said party of the second part shall be entitled to receive and shall be paid four (4) cents per hundred (100) pounds on the products from said mills along the line of railway of the said second party, which may be shipped under the terms of this agreement (excluding export business, the divisions of which shall be subject to future agreement between the traffic managers of the first and second parties), and that upon all other commodities shipped over the lines of said party of the first part and the said party of the second part, the said party of the second part shall be entitled to such per cent of the whole
111 amount of freight received for the entire shipment as may be agreed upon from time to time by the traffic managers of the said first and second parties.

The division of freight rates above set forth is based upon present through rates; and it is hereby agreed that if, at any time during the existence of this agreement, the through rates shall be changed from what they are at the signing of this agreement, the proportion which the said party of the second part shall receive shall be correspondingly changed—that is, increased or reduced pro rata.

7. The said party of the first part agrees that it will at all times, during the existence of this agreement, publish for all points mentioned in its tariff, the same freight rates on all products of the parties of the third part, from all points on the line of railways of the said party of the second part, as are or shall be in effect from Lake Charles, Louisiana, on the line of the said party of the first part, which rates shall at all times, during the existence of this agreement, be competitive with rates from other points in Calcasieu Parish producing yellow pine, to all destinations to which party of the first part may be able to arrange through rates.

8. The said party of the first part and the said party of the second part agree that said party of the first part shall be amenable to said second party and said party of the second part shall be amenable to said party of the first part for the prompt and careful handling of

all cars of the other party, or cars of other companies not parties hereto, which the said parties may respectively handle; and in the handling of cars the usual practice and penalties of railroad companies in the State of Louisiana shall govern, and that no
 112 cars of the party of the first part shall be used locally by the said party of the second part, nor shall any cars of the party of the second part be used locally by said party of the first part.

9. The party of the first part agrees to indemnify and save harmless the party of the second part for any loss or damage to its cars or equipment, or to cars or equipment belonging to other companies or persons, which it may receive from the party of the second part, which may occur while said cars or equipment are on the lines of said party of the first part or under its control. And likewise the said party of the second part agrees to indemnify and save harmless the said party of the first part for any loss or damage to its cars or equipment, or to the cars or equipment belonging to other companies or persons, which it may receive from said party of the first part, and which damage may occur while said cars or equipment are on the line of said second party or under its control. And in case of any damage to such cars or equipment while on the line or under the control of the respective parties hereto, repairs to such cars and damages to such cars shall be adjusted between the parties hereto in accordance with the rules and regulations of the Master Car Builders' Association.

10. This agreement and all the terms and conditions, rights and obligations thereof, shall inure in favor of and be binding upon the successors, assigns and lessees of each of the parties hereto.

11. This agreement shall commence and become effective on the date hereof, and shall be and remain in full force and effect for the
 113 period of twenty (20) years thereafter, or so long as the parties of the third part shall operate their mills along the line of railway of said party of the second part.

In witness whereof, each party hereto has caused this agreement to be signed by its proper officer and its corporate seal to be affixed the day and year first above written.

[SEAL.]

LOUISIANA WESTERN RAILROAD COMPANY,

By W. V. S. THORNE, *Vice-Pres.*

Attest:

ALEX. MILLER, *Secretary.*

[SEAL.]

LOUISIANA & PACIFIC RY. CO.,

By R. A. LONG, *President.*

Attest:

F. J. BANNISTER, *Secretary.*

[SEAL.]

HUDSON RIVER LUMBER CO.,

By R. A. LONG, *President.*

Attest:

F. J. BANNISTER, *Secretary.*

[SEAL.]

KING-RYDER LUMBER CO.,

By R. A. LONG, *President.*

Attest:

F. J. BANNISTER, *Secretary.*

[SEAL.]

CALCASIEU LONG LEAF LUM-
BER CO.,

By R. A. LONG, *President.*

Attest:

F. J. BANNISTER, *Secretary.*

[SEAL.]

THE LONG-BELL LUMBER CO.,

By R. A. LONG, *President.*

Attest:

F. J. BANNISTER, *Secretary.*

EXHIBIT "B."

Agreement, Made this 13th day of October, A. D. 1906, by and between the Colorado Southern, New Orleans & Pacific Railroad Company, hereinafter called the "Colorado Company," party of the first part, the St. Louis & San Francisco Railroad Company, hereinafter called the "Frisco Company," party of the second part, 114 the Louisiana & Pacific Railway Company, hereinafter called the "Louisiana Company," party of the third part, the King-Ryder Lumber Company, hereinafter called the "King Company," party of the fourth part, the Hudson River Lumber Company, hereinafter called the "Hudson Company," party of the fifth part, the Calcasieu Long Leaf Lumber Company, hereinafter called the "Calcasieu Company," party of the sixth part, and the Long-Bell Lumber Company, hereinafter called the "Long-Bell Company," party of the seventh part;

Witnesseth: That, Whereas, The Colorado Company is a railroad corporation, organized and existing under the laws of the State of Louisiana, and is constructing a line of railroad in the State of Louisiana running in a general easterly and westerly direction, and which will pass near the village of Ramsay in Calcasieu Parish, and which will reach directly and through its connections a large number of markets wherein the products of the King Company, the Hudson Company, the Calcasieu Company and the Long-Bell Company, or all companies owned and controlled by either or all of said companies, can be sold, and

Whereas, The Frisco Company is a railroad corporation, organized and existing under the laws of the State of Missouri, and controls, by ownership of stock, the Colorado Company, and

Whereas, The Louisiana Company is a railroad corporation organized and existing under the laws of the State of Louisiana, and is to be constructed and operated from De Ridder to near Ramsay in Calcasieu Parish, Louisiana, and may be extended or construct

115 branches to other points. Its line of railroad will connect with the line of railroad of the Colorado Company near Ramsay and will largely traverse the timber lands of the King Company, the Hudson Company, the Calcasieu Company and the Long-Bell Company, and the companies owned or controlled by

either or all of them, and in connection with the railroad of the Colorado Company and of the Frisco Company will furnish railway facilities for the transportation of the lumber of all of said lumber companies from the forest to the different mills of all of said lumber companies on said line of railroad, and the transportation of the products thereof to the markets which all of said lumber companies will desire to reach, and

Whereas, The said King Company, The Hudson Company, the Calcasieu Company and the Long-Bell Company are each organized under the laws of the State of Missouri, and each owns and controls large tracts of timber lands in the Parish of Calcasieu, State of Louisiana, all of which are tributary to the said proposed line of railroad of the Louisiana Company, and each is extensively engaged in cutting the timber on said land and marketing the products thereof, and

Whereas, The transaction of the business of all of said lumber companies is hampered and made less profitable than it should be because of lack of adequate railway facilities and means of transportation of the timber from the forest to their mills, and for lack of railway facilities and means by which the products of said timber can be transported from the mills to the most advantageous markets. For the proper, economical and profitable conduct of their business the said lumber companies have arranged with the Louisiana Com-

pany to construct and operate its said proposed line of rail-
116 way. In furtherance of this purpose the Louisiana Company, the King Company, the Hudson Company, and the Calcasieu Company have requested the Colorado Company to permit the Louisiana Company to make a track connection with its line near Ramsay and to enter into this agreement, and

Whereas, The Long-Bell Company is a corporation, organized and existing under the laws of the State of Missouri, and it owns and controls the property and franchises of the said King Company, Hudson Company, and Calcasieu Company, through stock ownership thereof, and has also requested the Colorado Company to permit the Louisiana Company to make such track connections with its said line and to enter into this agreement, and

Whereas, Where the term "Lumber Companies" is used in this agreement it means the King Company, Hudson Company, Calcasieu Company and the Long-Bell Company, and all lumber companies controlled by them by the ownership of stock or otherwise, and

Whereas, The several parties hereto, because of the mutual advantages accruing to them hereby, are willing to enter into this agreement.

Now, Therefore, in consideration of the premises and of the mutual covenants and agreements hereinafter contained, and of the sum of One Dollar (\$1.00) to each of the parties hereto by the other parties paid, the parties hereto have covenanted and agreed, and do covenant and agree each with the other as follows:

First. The Louisiana Company covenants and agrees that it will, with all convenient speed and dispatch, construct its said railroad

and provide it with the necessary side and spur tracks and
117 other appurtenances necessary to the railway ready for the
operation of trains thereover from De Ridder, Louisiana, to
near Ramsay, Louisiana, and to there connect said line with the line
of railway of the Colorado Company, in the Parish of Calcasieu.

Second. The Colorado Company hereby covenants and grants to
the Louisiana Company, during the existence of this agreement, the
right to connect the above described line of railway of the Louisiana
Company with the line of railway of the Colorado Company at such
convenient point near Ramsay as shall be designated by the Colo-
rado Company, and also the right thereafter for a like term to
operate at and over the point of connection under such rules and
regulations therefore as shall from time to time be adopted by the
Colorado Company.

Third. The Colorado Company and the Louisiana Company
agree that during the existence of this agreement that they will
interchange business with each other at said point of connection
of their respective lines and by means thereof will establish a
through line of railway with traffic thereover on the basis of the
division of rates as hereinafter set forth.

Fourth. The King Company, the Hudson Company, the Calca-
sieu Company and the Long-Bell Company covenant and agree with
the Louisiana Company, for its benefit and that of the Colorado
Company and of the Frisco Company, to ship and cause to be
shipped each and every month during the existence of this agree-
ment over the line of railway of the Louisiana Company from the
forest to the mills of the said named lumber companies, and all
companies owned or controlled by them or either of them, all of the
timber cut by all of said companies from all their lands

118 (including all lands controlled directly or indirectly by them
or by any of their subsidiary companies, or by any com-
panies in which they hold controlling interest) which they or either
of them now own or may thereafter acquire along or contiguous to
the said line of railroad of the Louisiana Company, and that they
will ship at least fifty per centum (50%) of all the products of said
mills to said point of connection near Ramsay over the line of rail-
road of the Louisiana Company, and then over the line of railway
of the Colorado Company, and of the Frisco Company, and their
connections, to the points of destination thereof. And the Louisiana
Company covenants and agrees with the Colorado Company and
with the Frisco Company, during the existence of this agreement,
to deliver to the Colorado Company and to the Frisco Company, at
said point of connection near Ramsay, said amount of at least fifty
per centum (50%) of all the products of said mills, as hereinbefore
mentioned, for the purpose of having same transported from the
said point of connection over the line of the railway of the said
Colorado Company and the Frisco Company and their connections
to the points of destination thereof. Provided, however, that if
hereafter the King Company, the Hudson Company, the Calcasien
Company or the Long-Bell Company shall acquire timber lands
along or contiguous to the line of railway of the Louisiana Com-

pany, the owners of which shall require, as a condition of the sale thereof, that all or part of the timber or products of the timber from the same shall be shipped over some other line or lines of railway than the line of railway of the Colorado Company, then, and

in such case, the provisions of this agreement shall not apply
119 to such lands or to the timber or products of the timber therefrom, in so far as there may be a necessary conflict with the said condition of sale of such after acquired lands.

Fifth. The Colorado Company and the Frisco Company agree, during the existence of this agreement, to accept from the Louisiana Company all shipments by it offered and to transport the same with reasonable promptness and dispatch, and to use every reasonable effort to furnish the Louisiana Company with cars as requested by it from time to time, to a number sufficient for transporting at least fifty per centum (50%) of all the products of the mills of the King Company, the Hudson Company, the Calcasieu Company and of the Long-Bell Company, and of all companies owned or controlled by them or either of them. It is understood and agreed, however, that if the Colorado Company or the Frisco Company shall fail during any calendar month to furnish the number of cars required by the Louisiana Company and necessary in order to transport fifty per centum (50%) of the products of the said mills during said month, then, in such event, the Colorado Company or the Frisco Company shall not be obliged thereafter to make up such deficit of cars in any such calendar month. Nor shall the Louisiana Company be obliged thereafter to furnish freight to make up such deficit on account of such failure of said Colorado Company or Frisco Company to furnish cars in said calendar month.

Sixth. The Colorado Company, the Frisco Company and the Louisiana Company agree, each with the other, that they will enter into joint tariffs relating to the joint traffic over their respective lines, and to file the same with the Interstate Commerce
120 Commission and to publish the same in the manner and form as required by law.

Seventh. It is further agreed that no per diem charges shall be made by either the Colorado Company, or Frisco Company, or the Louisiana Company on freight cars delivered by either to the other of said parties, including its own and also foreign cars, during or for the first six days after such delivery, but all per diem charge accruing on cars after the expiration of said period of six days from the date of delivery thereof by one of said parties to the other, shall be paid by the party using and holding said cars to the other of said parties.

Eighth. The cost and expense of constructing, maintaining and renewing such connecting, interchange or sidetracks as may be necessary to properly handle the business of the Louisiana Company at said point of connection near Ramsay shall be borne and paid jointly and equally by the Louisiana Company and the Colorado Company.

Ninth. The King Company, the Hudson Company, the Calcasieu Company and the Long-Bell Company further covenant and agree

with the Louisiana Company and the Colorado Company and the Frisco Company to deliver, or cause to be delivered, to the Louisiana Company for transportation over the railway of the Colorado Company and of the Frisco Company to points on or reached via the railways or some of them constituting the railway lines or system of which the Colorado Company or the Frisco Company shall form a part, at least fifty per centum (50%) of all outbound shipments of lumber and other products of the mills of the said King

121 Company, Hudson Company, Calcasieu Company and Long-Bell Company, and of all companies owned or controlled by them or either of them, each and every month during the existence of this agreement, and in every such case they shall cause or permit such shipments to be so routed as to give to the railways constituting the railway lines or system of which the Colorado Company and the Frisco Company are a part, such hauls as shall yield to them the largest revenue.

Tenth. In respect to the division of freight rates between the Louisiana Company and the Colorado Company and the Frisco Company the said three companies hereby agree to the following division during the existence of this agreement:

On all lumber shipments originating on the line of the Louisiana Company, the Louisiana Company shall receive thirty-five per centum (35%) of the through rate, with a maximum of five and one-half cents per hundred pounds.

It is agreed that the above division of through rates shall include delivery of shipments to the Colorado Company or to the Frisco Company and are based upon the present through rates. It is agreed that if at any time during the existence of this agreement the through rates shall be reduced, the maximum of five and one-half cents per hundredweight due to the Louisiana Company shall be reduced in proportion to the reduction of the through rates.

Where lumber shipments made by the Lumber Companies originate on the line of the Louisiana Company and are transported over the line of the Colorado Company from the point of connection between the lines of the two companies near Ramsay to near Kinder,

122 in Calcasieu Parish, on the line of railway of the St. Louis, Watkins & Gulf Railway Company and delivered to the latter company at or near Kinder, the Colorado Company will make a rate for the transportation over its line, from the point of connection near Ramsay to the point of connection at or near Kinder, of not to exceed one cent per hundred pounds on such lumber shipments. But as to such shipments the division of the through rate hereinbefore agreed to and the maximum of five and one-half cents per hundred pounds shall not apply, and as to such shipments the Louisiana Company shall not receive from the Colorado Company any division of the through rate, and such shipments from Ramsay to Kinder shall not be computed or considered as part of the fifty per centum (50%) of shipments to be made over the line of railroad of the Colorado Company and the Frisco Company and their connections.

The Colorado Company and the Frisco Company agree that they

will at all times during the existence of this agreement publish for all territory east of the Mississippi River and north of the Ohio River and points on and west of the Mississippi River on the lines of the Frisco and Rock Island Systems and their connections the same freight rates from points on the Louisiana Company's line as are or shall be in effect from Eunice, La., on the Colorado Company's line.

On all commodities of traffic other than lumber which may be interchanged between the Louisiana Company and the Colorado Company and the Frisco Company the said three companies agree to make such divisions of the tariffs between themselves as shall be reasonable and fair and in accordance with the usual methods of

making joint tariffs and divisions on like commodities between railroad companies operating lines of railroad within the State of Louisiana.

Eleventh. The Louisiana Company and the Colorado Company and the Frisco Company agree that each company shall be amenable to the other company for the prompt and proper handling of all cars of the other company, or cars of the other companies not parties hereto which it may handle; that in the handling of cars the usual practice and penalties of railroad companies in the State of Louisiana shall govern, excepting as to per diem charges as hereinbefore provided for, and that no cars of either company shall be used locally by the other companies.

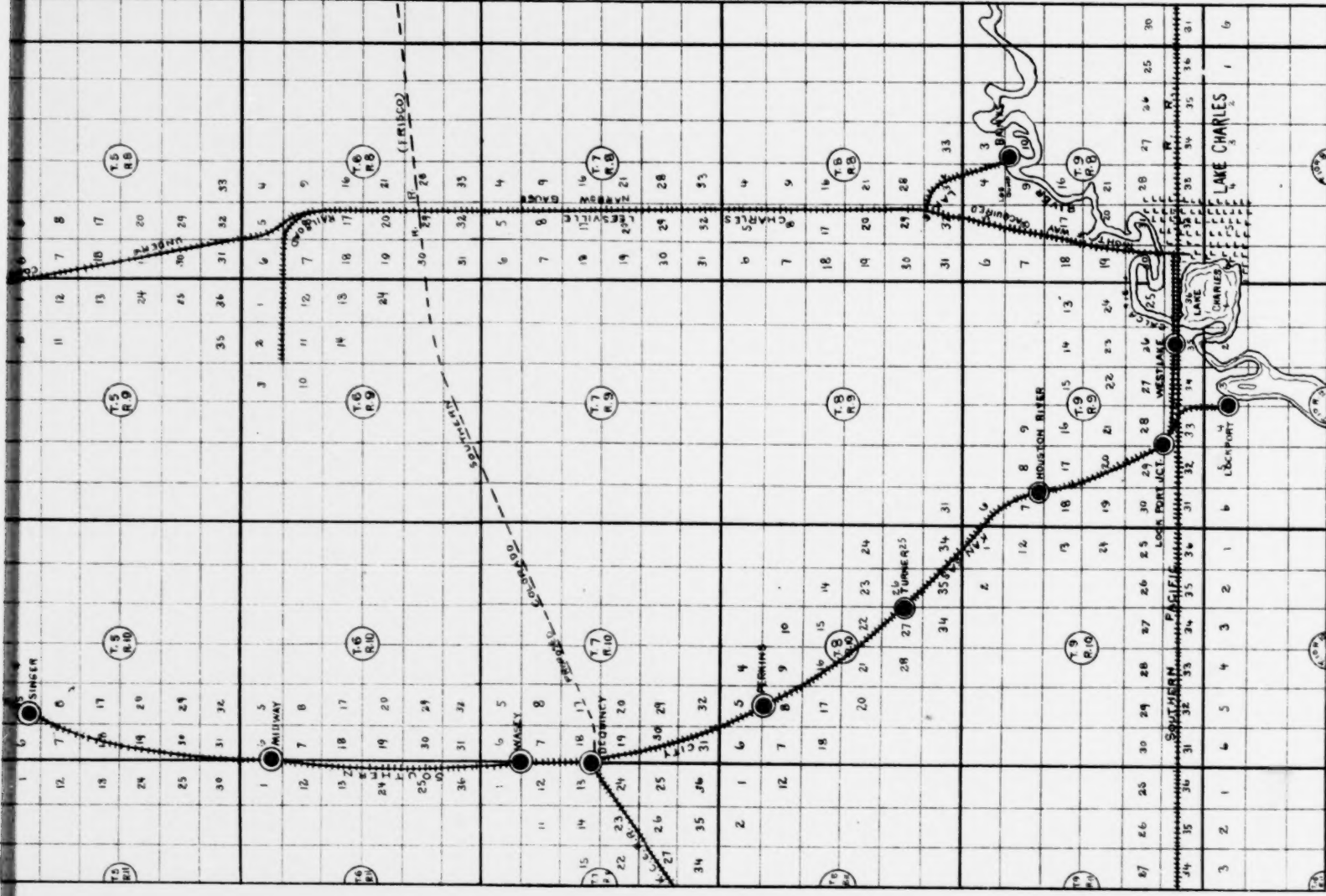
Twelfth. The Louisiana Company and the Colorado Company and the Frisco Company each further covenant and agree to indemnify and save harmless the other from any and all loss of and damage to its cars or equipment or to cars or equipment belonging to other companies or persons which either company may receive from the other company which may occur while such cars or equipment are on the railroad of the indemnifying company, and in case of any damage to said cars or equipment while on its said line each of the said companies agree to properly repair the same without delay, and if it fails or neglects to repair the same within a reasonable time and to the satisfaction of the other company, then the other company may make such repairs and the cost thereof with ten per centum (10%) thereon additional thereto shall be paid to the company making such repairs by the other company immediately upon the receipt of statement showing the amount of such cost.

Thirteenth. This agreement and all the terms and conditions, rights and obligations hereof shall inure in favor of and be binding upon the successors, assigns and lessees of each of the parties hereto.

Fourteenth. The Colorado Company shall proceed diligently to construct and put into operation its line of railroad passing near Ramsay and to make railroad connections with other line or lines of railroad so that the freight herein referred to may be transported by said Colorado Company and Frisco Company, and their connections, and as soon as the railroad of the Colorado Company has been constructed and put into operation to such extent and for such purposes then this agreement shall become effective and it shall be and

The map displays the Pacific Ocean region, including the coastline of North America and the Hawaiian Islands. A grid of latitude and longitude lines is overlaid. Key locations marked include Seattle, Portland, San Francisco, Los Angeles, San Diego, and Honolulu. The map also shows the Gulf of Alaska, the Bering Sea, and the Pacific Ocean. The map is titled "PACIFIC OCEAN" at the top.

UNDER
CONSTRUCTION
AT
TIME
OF
CONTRACT
(OCT. 31, 1906)
BETWEEN
L. & P. RY.
AND
L.C. & N. R.R.



Record 524

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